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The Impact of Terrorism on State Law Enforcement

Adjusting to New Roles and Changing Conditions

Final Report

June 2006

The Council of State Governments and Eastern Kentucky University

Through support from the National Institute of Justice

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Executive Summary

The catastrophic events of Sept. 11, 2001, served as a wake-up call to the nation regarding the threat of terrorism. Preventing future acts of terrorism and preparing for massive response operations became a national priority overnight for law enforcement at all levels, creating new responsibilities and new paradigms for federal, state and local law enforcement agencies.

Changes quickly took place in the federal government, including the creation of the new Department of Homeland Security and shifting priorities within the Federal Bureau of Investigation and other federal law enforcement agencies. At the state level, anecdotal evidence gathered soon after Sept. 11 indicated state police were engaging in many new homeland security roles, such as:

- coordinating homeland security at the state level;
- collecting, analyzing and sharing critical information and intelligence;
- protecting critical infrastructure and key assets;
- securing the nation's borders, air and sea ports;
- collaborating with federal and local law enforcement on task forces; and
- preparing for new response equipment, tactics, systems and training.

In 2003, The Council of State Governments and Eastern Kentucky University set out to explore these new roles and changing conditions. Among other components of this 18-month effort, researchers conducted a 50-state survey of state and local law enforcement agencies, conducted a series of case studies, and convened an expert work group of public officials.

According to the survey results, state law enforcement agencies are very involved in their states' homeland security initiatives. Combined with new demands for collaboration with other branches of government and the private sector, state police personnel and resources are stressed in many ways today. The following summarizes a number of key survey findings:

- Approximately three-quarters of state law enforcement agencies report a great amount of involvement in or serve as their state's leader for gathering, analyzing and sharing terrorism-related intelligence. Overall, state police are much more involved today than before Sept. 11 in building their state's intelligence capabilities, conducting terrorism-related investigations and coordinating and planning for homeland security.
- More than 70 percent of state agencies agree that their individual officers and investigators have significant new responsibilities in terrorism-related intelligence gathering, investigations and emergency response. These new requirements are having a substantial impact on state police intelligence, planning and grants-management efforts.

- Local law enforcement agencies are requesting more operational assistance and support from state police today than before Sept. 11, particularly training, technical assistance, forensic science, specialized services and help with computer crimes. State agencies have provided additional training and technical assistance to local agencies.
- More than 75 percent of state agencies report that their assignment of personnel to federal task forces has increased or significantly increased since Sept. 11. While state police interaction with federal immigration officials has increased, federal support for drug and traditional crime investigations has decreased across the states.
- Among many federal agencies, state and local law enforcement most commonly report increased levels of interaction since Sept. 11 with the FBI, Office for Domestic Preparedness and Immigration and Naturalization Service.¹
- More than 60 percent of state police agencies report an increase in their interactions with corporate security representatives and private companies concerning facility security and worker background checks. Relationships with the private sector have generally increased, likely resulting in more state agency time and resources required for these public-private activities.

In addition to the survey, project staff conducted five case studies during the summer of 2004. The purpose of the state visits was to document several different structures and models to address terrorism at the state level, focusing on the different roles played by state law enforcement agencies. Although states have many unique conditions and needs, several common themes surfaced during the visits:

- States are developing new intelligence fusion centers, analysts and tools.
- The popularity of regional and statewide planning is growing.
- Although homeland security requires an unprecedented level of cooperation among the different state-level disciplines, state law enforcement agencies are playing a lead role in preventing terrorism.
- Terrorism prevention requires an “all crimes” approach; integration with the criminal justice system is critical.
- State police are playing critical roles on the nation’s borders and highways.
- State and local law enforcement agencies share many concerns about shifting federal law enforcement priorities.

Once compiled, the survey and case study information was presented to a 30-member work group of state, local and federal officials for in-depth analysis. This group met twice in 2004 to interpret the research results, identify intergovernmental issues and needs, and form recommendations for state policy-makers. Chapter Four summarizes the work group’s recommendations.

The group recognized the importance of improved intelligence gathering, analysis and sharing of tools. The integration of new terrorism-related demands into the existing criminal justice framework is likewise critical. Furthermore, cooperation among the entire law enforcement community, including local and federal law enforcement and

private sector players, is imperative for progress. Finally, the work group addressed a number of state-level governance, planning and legal issues affecting state law enforcement and general terrorism-prevention duties.

The authors hope that, as state officials seek to improve homeland security, results from this project will provide them with a clearer understanding of current conditions and strategic directions for the future.

Chapter One: Introduction

This report examines the impact of terrorism on state police agencies. It is well known that new homeland security and terrorism-related demands are affecting many disciplines at all levels of government. So what is the purpose of focusing on state police? The answer is threefold.

First, historical data and literature about states' operational roles and activities related to terrorism are simply absent. Second, there is a need to examine how new terrorism-related activities may be affecting more traditional and emerging state police priorities. And third, state police agencies have historically been neglected, relatively speaking, as the subjects of research and policy work.

States' historical role in homeland security

Although there is a lack of historical data and literature about states' counterterrorism activities, state police probably had some knowledge and expertise related to terrorism in the years leading up to Sept. 11.² However, if asked about terrorism prevention and homeland security, most state officials would likely have directed responsibility to the federal government. Today, state and local law enforcement agencies nationwide are playing a primary role in these activities.

Before Sept. 11, terrorism was likely a higher priority for state officials in Georgia, Oklahoma and New York than for those in other states because of their firsthand experiences with terrorism in the 1990s. In 1993, a bomb exploded in the parking garage of one of the World Trade Center towers in New York City, killing six people and injuring approximately 1,000. Two years later, the Murrah Federal Building in Oklahoma City was destroyed by a bomb blast that killed 168 people and injured more than 500. And in 1996, a pipe bomb exploded in Atlanta's Centennial Olympic Park, killing one woman and injuring 112 people.

In 1997, select cities began receiving funding for domestic preparedness related to weapons of mass destruction through the federal Nunn-Lugar-Domenici Domestic Preparedness Program. The states represented by these cities were likely more prepared for massive response operations than others. Nevertheless, terrorism prevention never appeared to be a high priority for state and local law enforcement agencies before Sept. 11.

Today, state police are pursuing unprecedented homeland security and terrorism-related activities. For example, the development of state intelligence fusion centers is a post-Sept. 11 phenomenon. This research project aims to explore the recent proliferation of terrorism-related roles and responsibilities among the state police community.

Homeland security's effect on other police priorities

Along with the need to understand how states' roles have changed over time, there is a need to examine how new terrorism-related activities may be affecting traditional state police priorities, along with other emerging challenges.

For example, before Sept. 11, the Federal Bureau of Investigation, along with state and local law enforcement, played important roles in fighting financial crimes, bank robberies, organized crime and drug trafficking. One might assume that, by default, state and local law enforcement would become more involved in these efforts, given the FBI's new priority: "Protecting the United States from terrorist attacks."³ However, federal grant programs to support these efforts at the state and local levels, including the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant and Community Oriented Policing Services program, have been diminished or dissolved since Sept. 11.⁴

State police appear to be in a "tug of war" among many different expanding responsibilities. On top of new homeland security roles, many state police agencies are also responsible for:

- fighting new synthetic drug epidemics like methamphetamines;
- managing and helping to enforce new sex offender registries;
- fighting identity theft and computer crimes; and
- assisting federal officials with immigration enforcement and investigation.

At the same time, many police officers serve in the reserves and National Guard and continue to be activated for service in Afghanistan and Iraq, placing a huge personnel strain on the states.⁵

A closer examination of these emerging conditions will provide evidence about which responsibilities appear to be losing ground to new terrorism-related duties. Armed with this information, policy-makers and practitioners can reassess resources and responsibilities among state, local and federal law enforcement to ensure all public safety needs are met.

Lack of research on state police

State police agencies have historically been neglected, relatively speaking, as the subjects of research and policy work. Therefore, little is known about state police structures, practices, needs and promises for the future. State law enforcement agencies are often part of larger studies looking at the community of state and local police. Unfortunately, they frequently take a subsidiary role to local law enforcement agencies, especially large city police departments. Gaining a better understanding of state law enforcement agencies is important for many reasons today. Not only are state agencies actively involved in terrorism preparedness, but many play a critical role in other public safety priorities by

enforcing laws related to new and emerging crimes such as Internet fraud and identity theft.

These emerging conditions require a closer examination of state police structures and roles, as well as their relationships to other law enforcement stakeholders. Understanding these changing conditions can help improve policies and practices at the national and state levels.

State law enforcement – yesterday and today

About 10 percent of police in the United States are employed by the states.⁶ State law enforcement has traditionally played an important, but relatively small role in the overall picture of policing in America. One of the oldest and best-known state police organizations is the Texas Rangers, established in 1835.⁷ Most state agencies, however, are relatively new. The growth of the interstate highway system during the mid-20th century and the need for traffic safety and enforcement forced most states to establish or expand their state law enforcement agency.

In addition to highway safety and criminal investigations, general-purpose agencies play many other lead and supporting roles in the states. For example, these agencies often provide states with special weapons and tactics teams; search and rescue units; marine and aviation assets; crime labs; criminal history repositories; uniform crime reporting; statewide information systems; training for local law enforcement; and statewide communication, intelligence and analysis.

According to the Bureau of Justice Statistics, there were roughly 700,000 full-time, sworn state and local law enforcement personnel in 2000, including approximately 56,000 officers employed by general-purpose state law enforcement agencies.⁸ The Federal Bureau of Investigation, by comparison, employed just 11,523 special agents in 2000.⁹ The number of law enforcement officials substantially increases at all levels of government, especially at the state and federal levels, when special jurisdictions with arrest and firearm authorities are considered, such as the alcoholic beverage control, fish and wildlife and state park services.

Local police departments and sheriffs' offices provide the bulk of law enforcement services to rural communities. As with many other services, however, rural areas are severely constrained by the lack of law enforcement resources. In 1999, for example, 52.4 percent of all local law enforcement agencies employed fewer than 10 sworn officers while 5.7 percent employed just one sworn officer.¹⁰ For this reason, state police departments often play enhanced roles in rural areas by providing critical support services to smaller local agencies.

States have adopted two basic law enforcement structures: a unified structure—usually with the label state police, state patrol or department of public safety—and a bifurcated structure, with a highway patrol and a separate bureau of criminal investigation. Hawaii is the only state that does not have a general-purpose state-level law enforcement agency that fits one of these two models. In a unified system, the same state agency performs

patrol, traffic and criminal investigation responsibilities. Examples include the Illinois State Police, the Nebraska State Patrol and the Arizona Department of Public Safety. In a bifurcated system, one agency typically provides traffic enforcement and limited patrol services, while a separate agency investigates specified types of crimes. Florida, for example, has the Florida Highway Patrol and the Florida Department of Law Enforcement. California has the California Highway Patrol and the California Bureau of Investigation.

While practices vary substantially around the country, state law enforcement agencies typically provide extensive police services in rural areas of states with a unified structure. On the other hand, sheriffs' departments usually fill the law enforcement gaps in rural areas of states with a bifurcated system.

Supporting literature since 2001

Although the concept of homeland security is relatively new to state and local law enforcement agencies, recent literature suggests the need for heightened state and local police roles in the fight against terrorism. For example, a 2003 report by the National Criminal Justice Association declared, "State and local law enforcement officials are the front lines of defense by collecting intelligence/criminal information, developing strategies to protect our communities and our critical infrastructures, hardening vulnerable targets, and preparing for aggressive responses to acts of terrorism."¹¹

Similarly, a report by the RAND Corporation in 2004 emphasized, "Current trends suggest that law enforcement may play an increasingly important role in the investigation of terrorism-related incidents ... The large number of leads coming in from a variety of sources suggest that follow-up investigations may increasingly be conducted by local law enforcement agencies at the request of the FBI."¹² The report also mentioned that state and local law enforcement "may be called upon to act more broadly now to fill the gap between what federal agencies, such as the FBI, are restricted in doing versus what local law enforcement can contribute in terms of intelligence collections."¹³

The National Commission on Terrorist Attacks upon the United States, commonly known as the 9/11 Commission, also recognized the need for heightened intergovernmental cooperation in efforts to prevent terrorism. Despite progress with Joint Terrorism Task Forces, the *9/11 Commission Report* acknowledged that state and local law enforcement agencies "need more training and work with federal agencies so that they can cooperate more effectively with those federal authorities in identifying terrorist suspects."¹⁴

In addition, the commission noted that, "some terrorist operations do not rely on outside sources of money and may now be self-funding, either through legitimate employment or low-level criminal activity."¹⁵ Furthermore, "counterterrorism investigations often overlap or are cued by other criminal investigations, such as money laundering or the smuggling of contraband. In the field, the close connection to criminal work has many benefits."¹⁶

For this connection to occur, state and local agencies must be able to gather, analyze and share criminal information and suspicious activity with each other and the FBI. “The intersection of traditional crime and terrorism is leading to new roles and relationships among federal, state, and local governments,” said the report by NCJA.¹⁷

Not only are states faced with new homeland security roles, they are also affected by shifting federal law enforcement priorities. “The concern with the FBI is that it has long favored its criminal justice mission over its national security mission,” the 9/11 Commission said.¹⁸ In 2002, the FBI announced a reshaping of priorities to guide future activities, with the new priority being “protecting the United States from terrorist attacks.”¹⁹

Not only does a review of relevant literature suggest a theoretical need for increased use of state police, actual changes taking place nationwide show that these changes are occurring. For example, New York Gov. George E. Pataki announced in March 2003 the hiring of 120 new state troopers for additional security on the state’s northern border.²⁰ That same month, New Jersey Gov. James McGreevey signed an executive order to increase the presence of state police on transit trains, major rail stations, bridges and ports.²¹ Arizona Gov. Janet Napolitano and New Mexico Gov. Bill Richardson signed an agreement in February 2004 to better enable the sharing of intelligence information for homeland security purposes.²²

State police agencies are not only fulfilling important operational roles, many are being required to help coordinate statewide homeland security planning. A 2004 report by the National Emergency Management Association shows that the number of public safety or law enforcement personnel serving as their state’s appointed homeland security designee rose from 11 in 2002 to 15 in 2003. The report also states that 49 states have created a terrorism committee, task force or council.²³ Whether serving as the state’s homeland security director or coordinator, or participating on new committees and task forces, state police are affected by these new planning and coordination roles.

Chapter Two: Survey Methodology, Results and Impacts

To explore these changing conditions, the research team designed and implemented a three-stage project. The first stage was a survey of state and local law enforcement agencies nationwide. This chapter describes the survey results, along with the methodology used to gather, analyze and interpret information from all 50 states.

Research methodology

Instrumentation – The survey instrument was developed by a research team with state and local law enforcement experience. Survey items were developed from scratch since the project’s focus was to explore new developments. Staff did review and utilize several existing surveys related to homeland security, however, to gather ideas about survey structure and wording. The project advisory group reviewed the draft survey in December

2003, and their suggestions were incorporated into the draft survey before implementation in 2004.

Survey Framework – The Council of State Governments and Eastern Kentucky University administered the survey to state and local law enforcement agencies during the spring of 2004. The survey was administered to all state police and highway patrol agencies, as well as general-purpose state bureaus of investigation, for a total of 73 agencies. Each agency received a survey that contained quantitative and qualitative items. Survey responses were obtained from 21 state police and state patrol agencies, 16 highway patrol agencies and 24 state bureaus of investigation, or a total of 61 agencies.

The survey was also sent to a sample population of local agencies. The sampling frame for the local survey included a total of 400 police and sheriff agencies. The 200 largest local agencies were included as well as a sample of 200 other agencies randomly selected from the National Public Safety Information Bureau's directory of law enforcement administrators. Initially, the District of Columbia's Metropolitan Police Department was included in the local law enforcement survey. However, the research team omitted their survey response while conducting comparative analysis due to the District of Columbia's unique government structure.

The final response rates were 83.6 percent for state agencies and 46.6 percent for local agencies.²⁴ For the two subsets of the local survey, the response rates were 58.5 percent for the 200 largest agencies and 35 percent for the 200 randomly selected agencies. To arrive at these response rates, the research team administered a multimodal survey, using mailings and the Internet. Each targeted agency received a mailed questionnaire in January 2004. A Web-based instrument was also developed using Quask software. Respondents had the choice of completing the questionnaire online or by mailing in answers. Four weeks later, the research team mailed a reminder to all agencies with outstanding responses and followed the mailing with phone calls to meet the desired response rates.

Data Analysis – The data were analyzed using the Statistical Package for the Social Sciences (SPSS), version 12.0 for the personal computer. Most of the data collected were measured on a comparative scale using categories such as *fewer resources*, *no change* and *more resources*. Therefore, most of the statistical analyses involved generating frequencies and percentage distributions.

Analysis of survey results used two subsets of responding agencies: state and local agencies. State agencies were categorized as state police, highway patrols or bureaus of criminal investigation. State police are those state agencies that have general jurisdiction throughout the state for crime and traffic matters, and that generally provide both patrol and criminal investigation services. By contrast, highway patrol agencies are largely restricted to patrolling state and interstate highways, and primarily concern themselves with traffic safety.

Bureaus of criminal investigation typically provide criminal investigation services but do not engage in patrol or focus much on traffic safety. Usually, these bureaus of criminal investigation are found in states that also have highway patrols. On the other hand, states that have state police agencies do not ordinarily have separate general-purpose investigative bureaus, because the state police themselves engage in criminal investigations. Most states also have several special-purpose law enforcement and investigative agencies focusing on such matters as fraud, drug investigations, and fishing and hunting. These specific-purpose state agencies were not included in the survey.

Local agency respondents were categorized as small, medium or large in the survey analysis. A small agency is defined as having one to 25 sworn officers, medium agencies have 26 to 299 sworn officers, and large agencies include those with 300 or more sworn officers. (See Appendix C for copies of the state and local survey instruments and percent distributions.)

Allocation of resources

Summary: State law enforcement agencies reported allocating more resources since 2001 to responsibilities related to homeland security and terrorism prevention, as well as operational assistance to help local agencies with more traditional and terrorism-related needs. This allocation or reallocation of resources has been more prominent for state agencies than for all three types of local agencies.

The first survey category asked agencies about their allocation of resources for various operational law enforcement responsibilities since Sept. 11. Figure 2 compares state and local agencies' allocation of resources and, specifically, those responsibilities that have received *more* or *many more* resources. Agencies are omitted from each calculation if respondents reported that an operational responsibility was *not applicable*.

As indicated by the red bars, three-quarters or more of all state-level respondents indicated they allocated *more* resources to security for critical infrastructure, special events and dignitaries; intelligence gathering, analysis and sharing; and terrorism-related investigations. Not reflected in this figure, state agencies were most likely to report allocating *fewer* resources to drug enforcement and traditional criminal investigation. A majority of states, however, reported *no change* in allocation of resources for these two operational responsibilities.

State agencies were more likely than local ones to report allocating *more* resources for most operational responsibilities, except for airport security, community policing, drug enforcement and investigation, traffic safety and traditional criminal investigation. Fewer than 22 percent of state and local agencies reported allocating *additional* resources to traffic safety and traditional criminal investigation.

Although the patterns of resource allocation or reallocation since Sept. 11 were similar among state and local agencies, there were some notable differences.

- A greater percentage of state agencies reported allocating *more* resources to 10 of 15 comparable responsibilities, suggesting that these concerns have had a larger impact (as measured by allocation of more resources) on state agencies than on local ones.
- State agencies were substantially more likely than local agencies to report devoting *more* resources to border security; commercial vehicle enforcement; security for critical infrastructure; security for special events and dignitaries; intelligence gathering, analysis and sharing; and terrorism-related investigations.
- Unlike state agencies, local ones did not report allocating *substantially more* resources for any operational responsibility since Sept. 11.

After analyzing responses by the type of state agencies and size of local agencies, the most striking differences are found in responses of small and large local agencies. As with state agencies, a relatively high percent of large local agencies reported allocating more resources to security for critical infrastructure, events and dignitaries; intelligence gathering, analysis and sharing; and terrorism-related investigations. Small local agencies were consistently less likely to report allocating *more* resources for the various operational responsibilities.

The research team used a scaling method to compare the average score for each type of agency. Average responses were generated using the following scale: 1 = much fewer resources; 2 = fewer resources; 3 = no change; 4 = more resources; and 5 = much more resources. The average score for state agencies over all 18 operational responsibilities was 3.55, compared with 3.46 for local ones. Figure 3 shows the average score for each type of agency, using only applicable responsibilities.

While the average score for large local agencies is nearly as high as those for state police and highway patrol agencies, their resource allocation patterns differ to some extent. Large local agencies reported devoting *more* resources to airport and port security. State agencies, on the other hand, reported the largest resource increases for border security, commercial vehicle enforcement, high-tech investigations, and security for critical infrastructure, events and dignitaries. In addition, state police and highway patrol agencies indicated allocating *many more* resources to operational assistance for local agencies, an item not included on the local survey.

Relationships with other law enforcement agencies

Summary: State law enforcement agencies today are participating in more federal task forces and immigration-related investigations and interacting much more frequently with a wide variety of federal agencies. The same is largely true for local law enforcement agencies, but these changes have been more dramatic at the state level.

Local agencies are requesting more operational assistance and support from state law enforcement agencies, particularly training, technical assistance, forensic science, specialized services (e.g., aviation, marine, bomb squad, SWAT), and help with high-

tech/computer crimes. Since 2001, state agencies have been able to respond with additional training and technical assistance, but have not increased their assistance for other types of requests.

Several federal agencies have changed their priorities since Sept. 11 to better focus on domestic security. These federal agencies seem to be giving *less* attention today to traditional criminal investigations in terms of their own operational activities and in the form of assistance to local agencies. Anecdotal evidence indicates that these shifts may be creating voids or vacuums, placing additional burdens on state law enforcement agencies. Also, federal agencies have *increased* their requests for state and local participation in investigations related to terrorism and immigration.

Figure 4 summarizes responses from state law enforcement agencies regarding their relationship to federal agencies. The first four items pertain specifically to changes in federal agency activity. They indicate some degree of *decreased* federal involvement in traditional criminal investigation such as bank robberies, although the most popular response was *no change*. By contrast, state agencies report that federal participation in high-tech investigations and provision of support services to state and local agencies have *increased* since Sept. 11.

The last two items in Figure 4 pertain to changes in the state agency's involvement in federal task forces and immigration-related investigations. The trend in each case is toward *more* involvement by state agencies, especially on federal task forces such as Joint Terrorism Task Forces. Three-quarters of state agencies indicated *increased* or *significantly increased* assignment of personnel to such task forces, while 43 percent indicated increased involvement in immigration-related investigations and enforcement.

When comparing responses from state and local law enforcement agencies, answers to the first four items are similar, indicating that state and local agencies have common perceptions about changes in federal support and participation in investigations. Local agencies were somewhat less likely, though, to indicate *increased* assignment of personnel to federal task forces and increased involvement in immigration-related investigations and enforcement. Large local agencies are most similar to state agencies in their involvement in federal task forces and immigration-related activities.

The survey also asked respondents about their interactions with specific federal agencies since Sept. 11. As Figure 5 shows, state law enforcement agencies are interacting *more frequently* with a variety of federal agencies in the post-Sept. 11 era. Most notably, a high proportion of agencies reported *more frequent* interaction with the FBI, Office for Domestic Preparedness and Immigration and Naturalization Service. Although not depicted in this figure, the federal agencies with the most *no change* responses are the Internal Revenue Service, Drug Enforcement Administration and Postal Inspectors. State agencies most frequently listed the Central Intelligence Agency and National Security Agency *as not applicable for my agency*.

A greater percentage of state police reported *more* interaction with 14 out of 15 federal agencies than their local counterparts reported having with those same agencies. Although many of the differences between state and local law enforcement responses are fairly small, state agencies seem to have particularly increased their contacts with the INS, Customs and Coast Guard, in contrast to local agency responses.

Like their relationship with federal agencies, state police agencies' relationships with local law enforcement agencies have also changed since Sept. 11. Very few responses indicated any reduction in requests for assistance from local law enforcement. In three traditional areas – traffic safety, criminal investigation and drug enforcement – more than 65 percent of respondents indicated *no change* in requests from local agencies since Sept. 11. The two areas with the largest increases in reported requests from local agencies were training and technical assistance and high-tech/computer crimes. The survey did not elicit information about particular types of training or technical assistance that local agencies might request.

Figure 6 shows the average scores for state and local responses to similar questions about requested and provided assistance. The red bars indicate state agency responses to questions about requests for assistance from local agencies. The blue bars reflect local agency responses about the availability of state agency assistance. The one item in which a sizeable number of local law enforcement agencies indicated *increased* state-level activity was training and technical assistance. Further analysis of this figure and comparison of state and local agency responses leads to the following conclusions:

- Local agencies are requesting more assistance from state law enforcement agencies than these agencies are providing; and
- Local agencies report a modest increase in state-provided training and technical assistance since Sept. 11, which is one of the most common types of requests state agencies receive.

Relationships with the private sector

Summary: State law enforcement agencies have more interactions with private companies and private security, particularly regarding facility security, personnel security and corporate security. These increased contacts with the private sector since Sept. 11 exceed those experienced by small- and medium-sized local law enforcement agencies, and generally match those experienced by large local agencies.

Not only are state police interacting differently with other public entities, their relationships with private companies and private security have also changed since Sept. 11. Figure 7 shows state police responses to questions about the private sector. The absence of any *decreased* interaction with the private sector is notable; state law enforcement agencies reported *no change* or *increased* interactions with the private sector across the board. Specifically, state police have *significantly increased* their interactions with private companies related to the security of their facilities and workers (e.g.,

background checks) and their interactions with representatives of corporate security, firms that provide security services.

Compared with local law enforcement responses, state police indicated *more* interaction with the private sector in general. Although the differences are modest, they are greatest with respect to facility security, personnel security and corporate security. Compared only to large local agencies, state agencies reported *slightly more* interaction with private companies regarding workers. State police agencies typically house criminal records and serve as the primary liaison to other states and the federal government in sharing criminal records. This may explain why state agencies appear to be interacting more with private companies about workers than local agencies.

Involvement in homeland security

Summary: State law enforcement agencies report a great deal of involvement in a number of new homeland security initiatives. They also indicate that these homeland security initiatives are having a significant impact on several organizational functions, especially intelligence, grants management and planning.

The duties and responsibilities of individual state law enforcement officers and investigators have changed since Sept. 11. The largest changes have been increased responsibilities for investigating terrorist acts, responding to terrorist events, terrorism-related intelligence gathering and conducting vulnerability assessments. Changes among state-level officers' and investigators' duties and responsibilities appear to be more substantial than those experienced by their local counterparts.

The final category of survey questions asked about law enforcement agencies' role in their state's homeland security initiatives and the impact on individual officers' duties and responsibilities. As Figure 8 indicates, more than 50 percent of state law enforcement agencies reported that their level of involvement was *a great amount* or *our agency is the leader* for seven of the 12 activities listed in the survey. State law enforcement agencies seem to be playing only a small role in distributing homeland security funds and in educating and training the public about homeland security.

Differences among state police, highway patrols and bureaus of investigation regarding their homeland security roles are relatively small. Compared with their other state law enforcement agencies, state police are most likely to be involved in the distributing homeland security funds. Highway patrols are more likely to be involved in protecting dignitaries and critical infrastructure. Bureaus of investigation, on the other hand, reported *more* involvement in homeland security education and training for law enforcement and the public than either state police or highway patrols. The overall picture indicates a slightly higher level of involvement in homeland security initiatives for state police and bureaus of investigation than for highway patrols.

Respondents were asked about the impact of the new homeland security mission on various organizational functions within their agencies. The greatest impact for state agencies seems to be within the intelligence, grants management and planning functions.

Crime prevention, analysis and lab functions, on the other hand, have been affected the least. These findings are not surprising, especially given state law enforcements' heightened counterterrorism roles and workload associated with the administration of federal homeland security funds.

Homeland security's effects on organizational functions were analyzed separately for state patrol agencies, highway patrols and bureaus of investigation. Respondents were omitted from this analysis if they indicated that a function was *not applicable* for their agency. In general, highway patrols indicated a larger impact on field services such as patrol than their counterparts. State police and bureaus of investigation indicated larger effects on the investigations, intelligence and crime analysis functions. The overall impact on organizational functions is somewhat greater for state police agencies and bureaus of investigation than it has for highway patrols.

Finally, respondents answered questions about the homeland security mission's effect on the duties and responsibilities of individual officers and investigators. State agency respondents said that individual officers' duties and responsibilities have *substantially* changed since Sept. 11. A majority of state respondents reported *significant* new responsibilities for officers and investigators in investigating terrorist acts, responding to terrorist events, gathering intelligence and conducting vulnerability assessments.

Comparing the average responses for state and local law enforcement agencies reveals several differences. First, local agencies were slightly more likely to agree that individuals' duties and responsibilities have not dramatically changed. Local agencies were also more likely to say that their officers have *significant* new responsibilities in educating and mobilizing the community for homeland security. State respondents, however, felt more strongly that officers and investigators had significant new responsibilities in investigating terrorist acts and terrorism-related intelligence gathering.

In summary, state police report many new or heightened responsibilities in the realm of terrorism prevention, as indicated by their allocation of resources since Sept. 11 and lead roles for prevention-related activities like intelligence gathering and the protection of critical infrastructure. These tasks, in addition to new homeland security duties such as statewide planning, are requiring state police to collaborate much more today with a wide range of state, local and federal officials, as well as the private sector. Although all state police are affected by these duties, the specific areas, functions and responsibilities most affected vary across the states.

Chapter Three: Case Study Themes

Project staff conducted five case studies to document several different structures and models to address terrorism at the state level, with a particular focus on the different roles played by state law enforcement agencies and other criminal justice stakeholders. Specifically, case studies allowed the research team to examine innovative practices, clarify survey responses and gather additional information about the impact of changes

since Sept. 11 on state law enforcement agencies. Although the survey results help to describe the changes taking place with respect to state police agencies, they provide only a modest indication of cause and effect relationships. Among other, more subjective findings, the case studies allowed the researchers to explore reasons for terrorism-driven change as well as the impact of new law enforcement priorities and intergovernmental relationships on the states.

One site visit was made to each of the five selected states: Arizona, Florida, Nebraska, New York and Washington. These states were chosen using a number of qualitative and quantitative criteria developed by the project advisory group.

Qualitative criteria:

- Innovative solutions from the survey results.
- Experience in responding to acts of terrorism or dealing with terrorist-related threats.
- Presence of critical infrastructure or high-priority targets.
- Comprehensiveness of state-level planning.
- Initiatives to improve intergovernmental relationships.

Quantitative criteria (case study states should represent diversity in terms of...):

- State police department size and structure.
- Homeland security structure.
- State size (e.g., land area, population size).
- Regional diversity with states from the East, Midwest, South and West.

Using this criteria, project staff selected the following case study states.

- *Arizona* – A southern border state, Arizona faces many unique challenges because of its vast land area (sixth largest in the nation), low population density (38th overall), high concentration of citizens in a single city (Phoenix), border location, and the high level of trafficking of legal and illegal people and goods. Although responsibility for homeland security is spread across many state agencies, the lead coordinator or director operates within the state Department of Emergency and Military Affairs. The Department of Public Safety is chiefly responsible for coordinating the state’s counterterrorism efforts including intelligence gathering, analysis and dissemination.
- *Florida* – Florida was selected as a case study site because of its law enforcement-led homeland security structure and many information technology solutions. Soon after the Sept. 11 attacks, the governor created a Regional Domestic Security Task Force in each of Florida’s seven Department of Law Enforcement regions. These task forces, co-chaired by a sheriff or police chief and a FDLE regional director, are comprised of police chiefs, fire chiefs, emergency management directors, health and medical officials, federal and state officials and private industry executives. The commissioner of the Florida Department of Law Enforcement serves as the state’s chief of domestic security initiatives.

- *Nebraska* – A Midwestern and predominantly rural state, Nebraska is known nationally for its bioterrorism and agroterrorism strategies. The state’s economy is highly reliant on agricultural processes and goods. Therefore, protecting agricultural interests is a high priority for the state, including the State Patrol. Unlike other states, the lieutenant governor serves as the homeland security director. In addition, the state’s vast rural areas present many unique challenges to the Nebraska State Patrol in helping to coordinate homeland security planning and activities and responding to emergencies.
- *New York* – New York was selected as a case study site because of its regional homeland security structure and innovative approaches to intelligence gathering, analysis and sharing. In addition, New York state has a large population (third largest in the nation); relatively high population density (ninth overall); the largest city in the country (New York City); a northern border with large lake and river systems; the New York City region, which contains critical infrastructure and key commercial entry points; and a highly diverse ethnic population. Furthermore, New York was the site of the nation’s deadliest terrorist attack.
- *Washington* – Washington is a unique case study state given its land border with Canada and water border with the Pacific Ocean, its relatively large population (15th largest in the nation), one highly populated city (Seattle), a large corporate presence (Boeing and Microsoft), its ferry system, and a host of sea ports that handle cargo and people. The state adjutant general serves as the state’s homeland security director and advisor to the governor on security matters. The Washington State Patrol plays many important roles in terrorism prevention and response, and it helps to coordinate activities among local and federal law enforcement agencies in the state.

Interviews were conducted with state, local and federal officials, including the state police, homeland security officials, local police chiefs and sheriffs and special agents from the FBI and Immigration and Customs Enforcement. Project staff explored many different topics related to terrorism and homeland security, searching for common themes. Although states have many unique characteristics, similar issues and needs surfaced in a majority of the states. For example, all states were pursuing intelligence fusion centers and improved intelligence analysis capabilities. The following six sections describe these common case study themes.

States pursuing intelligence fusion centers and analysts

“Fusion centers are an integral part of a state’s strategy regarding the prevention of terrorism,” said Lt. Col. Bart Johnson of the New York State Police. The centralization of intelligence sharing and analysis at the state level, through one physical center or network of facilities, provides a means to gather and analyze disparate networks of information more effectively and efficiently.

Generally speaking, the purpose of creating a new center is to improve the collection, analysis and dissemination of information and intelligence in order to prevent crime and terrorism. Common characteristics include a computerized tool or system; new

intelligence analysts; and the presence of state, local and federal law enforcement officials. Also, most intelligence fusion centers are managed by the state law enforcement agency. A few of the striking differences among states' fusion centers include the following:

- Some states have located their center with the FBI's Joint Terrorism Task Force while others have not.
- Some local law enforcement officials view these new centers as a "state police" tool while others view them as a "statewide" law enforcement tool. This slight distinction seems to affect the level of local law enforcement participation.
- State centers include, in varying capacities, the following state-level stakeholders: state transportation and motor vehicles departments; the National Guard; and corrections officials, including probation and parole.
- In addition to the FBI, state centers include various federal-level stakeholders, such as the Central Intelligence Agency, Department of Defense, Department of Homeland Security, Drug Enforcement Administration, Social Security Administration and U.S. attorneys.

Common challenges in developing and implementing new centers include: funding; overcoming organizational norms regarding investigation and the use of intelligence; overcoming document/information classification barriers among federal, state and local law enforcement personnel; incorporating new intelligence analysts; determining the roles and allocation of uniformed personnel for fusion center duty; and integrating and linking disparate computer systems.

Nevertheless, states are developing fusion centers to help address their intelligence needs. Among others, Arizona, New York and Washington have implemented or are currently developing intelligence fusion centers.

- *Arizona Counter Terrorism Information Center (ACTIC)* – Arizona was one of a handful of states to establish an information fusion center soon after Sept. 11. ACTIC is nationally recognized for providing tactical and strategic intelligence support to law enforcement officials across the state and for being uniquely located with the FBI's Joint Terrorism Task Force. Managed by the Arizona Department of Public Safety, the center fulfills many roles for the state, including maintaining and disseminating ongoing threat analysis and providing statewide training on intelligence.
- *Upstate New York Regional Intelligence Center (UNYRIC)* – The UNYRIC is a multi-agency center responsible for the collection, analysis and dissemination of intelligence information across the state. Located in the Albany area, UNYRIC provides timely and accurate criminal intelligence to law enforcement agencies in the 54 counties outside of New York City. This center is comprised of representatives from various federal and state departments, including the departments of Corrections and Parole; Department of Motor Vehicles; New York National Guard; Office of Homeland Security; and State Police. Although the Vermont State Police is the only

out-of-state law enforcement participant in UNYRIC, New York officials plan to consider agreements with other states.

- *Washington State Joint Analytical Center (WAJAC)* – Like the ACTIC and UNYRIC, WAJAC provides a centralized intelligence/analytical capability for the state. This center is located with and integrated into the Seattle FBI. This close proximity to federal partners enhances the state’s ability to network, solve problems, achieve cooperation and enhance information sharing. The WAJAC gathers information from local agencies and nine regional intelligence groups and shares that information statewide. In addition, it disseminates analytical products to law enforcement stakeholders across the state and provides investigative support to the JTTF.

State and local law enforcement agencies also face increasing needs for new intelligence-related analysts and investigators, in addition to the variety of analytical tools to support them in mining data and translating it into usable intelligence. These demands are likely due to a number of converging factors, including new terrorism-related requirements, shrinking budgets, growing demands for service and the larger movement in the law enforcement community toward information-led or intelligence-led policing.

According to CSG’s 50-state survey results, 92 percent of state law enforcement agencies said they have allocated more or many more resources for intelligence gathering, analysis and sharing since Sept. 11. Faced with an exorbitant amount of information and demand for valuable outputs and products, police organizations are searching for methods to gather data from many sources; assimilate that data and look for patterns and points of interest; and transform that information into usable products for top-level decision makers and field investigators. To accomplish these tasks, agencies are seeking human and technology assets. Simultaneously, the notion of intelligence-led policing is becoming more prevalent as law enforcement agencies nationwide aim to become more proactive at preventing all types of serious crime.

How are states responding to the convergence of these needs? The Florida Legislature, for example, authorized more than 30 new intelligence analyst positions for the Florida Department of Law Enforcement following Sept. 11. New York hired 15 analysts, 10 line analysts and five intelligence supervisors. Washington is seeking funding for four intelligence-related positions for the new Washington Joint Analytical Center and one intelligence analyst for each of its nine regional intelligence units.

In addition to funding, states are struggling with many associated questions and concerns. First, few standards exist for these analytical processes and products. Second, there is little guidance for state and local agencies by way of professional standards for analysts, including a desired set of skills, education and training. Third, states find themselves in fierce competition with federal agencies, especially the FBI, to recruit talented intelligence analysts. Finally, many questions about the integration of new analysts into the work force remain. For example, should new intelligence analysts be civilian or uniform and what career path should they follow?

Despite these challenges, there is consensus among the states that a huge need exists for intelligence analysts and improved analytical tools.

How much do state homeland security structures matter?

The demands of Sept. 11 have forced many states to establish a principal point of contact to coordinate homeland security planning, serve as a liaison with the new U.S. Department of Homeland Security and advise the governor on security matters. A report by the National Emergency Management Association in 2004 notes that states have chosen different homeland security models. In 2003, for example, the following state-level stakeholders served as their state's homeland security coordinator:

- public safety secretary/chief law enforcement officer – 15 states
- new homeland security director – 11 states
- adjutant general/director of military department – 10 states
- emergency management director – nine states
- special advisor to the governor – four states
- lieutenant governor – one state²⁵

Project staff examined five unique homeland security set-ups in 2004 to determine if one particular structure appeared more conducive to the missions and roles of law enforcement than others. Two of the five states that were visited had established a new office and director to coordinate homeland security activities. The other three states relied on the chief law enforcement officer, adjutant general and lieutenant governor respectively.

Surprisingly, the structures themselves had no apparent impact on the levels of cooperation achieved or on new roles and responsibilities. Rather than structure, the credibility and personality of the homeland security director seems to have a greater impact on cooperation. Also, given the multidisciplinary nature of homeland security, it seems to be important that the lead agency, whatever it is, be perceived as playing coordinating and facilitating roles, as opposed to command and control functions.

How is the state law enforcement agency viewed within the context of these larger planning and operational structures? State officials generally agreed that:

- the state law enforcement agency plays a lead role in terrorism prevention;
- the agriculture and public health sectors also play very important roles in terrorism prevention; and
- planning and preparation for terrorism response is a shared responsibility among all state-level disciplines.

Homeland security requires an unprecedented level of cooperation among the different disciplines. For example, it is not uncommon today to have one agency or discipline place personnel with others. New homeland security offices and planning committees are typically comprised of representatives from the agriculture, emergency medical care, emergency management, fire service, law enforcement, military, public health and public utilities sectors.

Although the actual structures do not appear to have great significance, the survey and case study results suggest that homeland security planning and coordination is having a large impact on the states.

A premium on regional and statewide planning

Historically, local jurisdictions have joined into substate regions for many reasons related to planning and the delivery of public services. For example, it is not uncommon for states to be segmented into public health districts, each providing services to a number of counties and municipalities within their jurisdiction. Many states today have smart growth planning and governance structures, comprised of public officials from multiple local jurisdictions. Similarly, new homeland security responsibilities are requiring states to consider the development of regions for planning and operational reasons.

Given the multidisciplinary nature of homeland security, new regional planning entities are being formed to assess the needs of all local stakeholders, including law enforcement, fire and public health providers. Many local jurisdictions in rural areas lack the resources and expertise needed to conduct comprehensive planning. Furthermore, there are simply not enough resources to supply every local jurisdiction with a full array of prevention and response equipment. For these and other reasons, states are turning to regions or zones as an alternative. Among other benefits, regional approaches help:

- unite local planning efforts;
- identify local communities of interest and regional needs;
- foster intrastate and interstate assistance agreements and compacts;
- foster regional cooperation and the acquisition and integration of interoperable equipment and communications systems;
- promote cost-sharing to maximize states' use of funds;
- promote information and intelligence sharing and critical infrastructure protection;
- create a network for regional knowledge sharing; and
- facilitate state management of homeland security strategies, activities and grant programs.

States pursuing regional structures are adapting them to their unique needs and characteristics. For example, many states are aligning existing regions to make planning and coordination easier and to minimize administrative costs. In addition, states are implementing regional structures through top-down and bottom-up methods, using different mixes of mandates, incentives and disincentives.

Regionalization is taking place in many states, including Florida and Washington.

- *Florida's Regional Domestic Security Task Forces.* Soon after the Sept. 11 attacks, Gov. Jeb Bush created a Regional Domestic Security Task Force in each of the Florida Department of Law Enforcement's seven regions. These task forces, co-chaired by a sheriff or local police chief and an FDLE regional director, are comprised of police chiefs, fire chiefs, emergency management directors, health and medical officials, federal and state officials and private industry executives. Florida's

regional structure serves operational and planning purposes for terrorism prevention and response.

- *Washington's Regional Homeland Security Coordination Districts.* Washington's nine districts are comprised of counties that include cities, towns and tribal nations within regional geographical boundaries. The purpose of this regional structure is to distribute federal grant funds, develop emergency responder equipment priority lists, plan and execute training exercises, create regionally based mutual aid plans and develop a volunteer infrastructure to support citizens' involvement in homeland security initiatives. Although operations and physical resources are maintained at the local level, coordination and planning are facilitated at the regional level. The Washington State Patrol is a participant in each of the nine districts.

(For further discussion of state regional homeland security structures, please see Addendum I.)

The criminal justice system and "all crimes" approach

State police have many competing public safety and law enforcement priorities today. As is often the case when new crimes surface, these agencies are struggling with incorporating new terrorism-related demands into the existing crime-fighting framework. To this end, two views or approaches are embraced – dedicating personnel for terrorism-related duties, or fully integrating terrorism into other crime prevention duties, the "all crimes" approach.

The dedicated-personnel model is partly predicated on the assumption that terrorists and terrorist-related activities are not closely linked to other more traditional criminal activity such as financial crimes and drug smuggling. Proponents argue that the requirements for fighting terrorism are unlike those for dealing with other crimes. Advocates of this model also argue for a separate, specialized approach because the risks and stakes associated with terrorism are extremely high, and this approach prevents "mission creep" into other law enforcement priorities. This is a valid concern, especially given how agencies today measure performance through quantitative factors such as number of arrests and prosecutions. Unlike other crimes, three years could pass before one state-level arrest is made related to terrorism.

A majority of states and experts believe that a nexus does exist among types of criminal activity, including illegal drug operations, money laundering, fraud, identity theft and terrorism. It is well known that some of the Sept. 11 terrorists were cited for traffic violations prior to the attacks while others obtained and used fraudulent driver's licenses.²⁶ Many experts believe there is a high probability of identifying terrorists through their involvement in precursor or lower-level criminal activity, as was possible with the Sept. 11 terrorists. Proponents of this model argue that states should embrace an "all crimes" approach to terrorism prevention. This strategy ensures that possible precursor crimes are screened and analyzed for linkages to larger-scale terrorist activities. Emergency management professionals use a similar approach, known as "all hazards," for emergency response and preparedness.

Although possible, making these linkages appears to be extremely difficult. First, there is a shortage of research about the precursor crimes-terrorism nexus. Evidence is needed suggesting how certain types of crimes are more or less likely to be used to support terrorism-related activities. Otherwise, law enforcement analysts and investigators have to scan very broadly for linkages, wasting precious time and resources. More concrete evidence would help law enforcement home in on those crimes that have the greatest chance for supporting terrorist-related activities.

Second, these precursor indicators could show up in many different places throughout the criminal justice system. Therefore, states are struggling to develop and implement protocols to leverage all criminal justice and regulatory personnel, resources and systems in identifying and reporting precursor crimes. For example, the nation's approximately 80,000 probation and parole officers work closely with neighborhood groups and are very aware of what's going on in their communities. With proper training, probation and parole officers could serve as an extra set of "eyes and ears" for law enforcement.

Third, state law enforcement work forces are struggling to balance new terrorism-related demands and duties with existing priorities. A clear need exists to educate and train specialized analysts for the counterterrorism mission.

Highway and border functions

Ensuring safety and security on interstate and state highways as well as critical border locations is largely a state police function. Likewise, state patrols are closely associated with or responsible for state departments of motor vehicle operations, including commercial vehicle enforcement and the issuance of standard driver's licenses.

Massive emergency response and evacuation operations require the traffic management and expertise of the state police. No state highway patrol knows these challenges better than the Florida Highway Patrol. Within a two-month span in 2004, four Category 3 and 4 hurricanes struck the state and caused massive damage. Planning and preparations for mass evacuation operations required tremendous cooperation within and around Florida, especially for those in rural areas.

"Approximately 2.8 million people were ordered to evacuate for Hurricane Frances – the largest evacuation in Florida's history," said Maj. Leroy Smith, homeland security administrator for the Florida Highway Patrol.

Florida relied on redundant means of communications to ensure that all citizens received evacuation orders, timelines and instructions. After the hurricanes had passed, state and local officials continued to face many challenges across the state, including search and rescue operations, providing care to victims, and establishing security and safety. Reentry plans included roving security patrols and traffic control assistance to manage the flow of assistance and citizens back into their communities.

Another large part of state law enforcement's highway function is managing and enforcing compliance with commercial vehicle rules and regulations, such as conducting background checks for potential drivers and vehicle inspections. Commercial vehicles daily crisscross the nation's approximately 3.9 million miles of roads and 600,000 bridges.²⁷ These vehicles often carry hazardous materials that, if used for terrorist-related purposes, present extraordinary risks to states and localities.

Similarly, states are feverishly working to improve the security features on standard issued driver's licenses and refine their issuance requirements. State police, in particular, are developing and implementing new technologies and training for police officers to better identify fraudulent driver's licenses.

As with the highway systems, the nation's points of entry present many unique challenges for state and local police organizations. According to CSG's survey, 50 percent or more of state police with responsibilities related to airport, land border and seaport security reported allocating more or many more resources for these duties since Sept. 11. Among others, New York and Washington are affected by new border-related duties.

- *New York's northern border.* Soon after Sept. 11, the governor authorized the New York State Police to hire 120 new troopers for additional security on its northern border. Working closely with their federal counterparts, these troopers are assigned to various duties including ports of entry and interstate patrol duties near border crossing sites. Others are assigned to specialized commercial vehicle enforcement, K-9 and hazardous material units.
- *Washington's ferry system.* The Washington State Ferry system is the largest ferry system in the United States, serving eight counties within Washington and the Canadian province of British Columbia. The Washington State Patrol has primary responsibility for the ferry system's security, including the implementation of an expansive explosive-detection canine program. In response to the events of Sept. 11 and new federal maritime regulations, the Washington Legislature allocated new resources to the State Patrol for these and other security measures at the terminals.

Shifting federal priorities and intergovernmental concerns

According to the *9/11 Commission Report*, "the concern with the FBI is that it has long favored its criminal justice mission over its national security mission."²⁸ In 2002, the FBI announced a reshaping of priorities to guide future activities, with the new number one priority being "protecting the United States from terrorist attacks."²⁹

Shifting federal law enforcement priorities since Sept. 11 have forced state and local agencies to assume greater roles for responsibilities previously held by federal agencies, such as financial crimes, bank robberies, organized crime and drug trafficking. These issues have not disappeared since Sept. 11, and state and local law enforcement agencies are obligated to address changing federal priorities by assigning new personnel and

shifting resources. Although the FBI may still be involved in these cases, it is much more selective today than before 2001.

In addition to the strain on state resources, state officials are concerned that the FBI's shift away from traditional crimes will cascade down to the state and local levels, thus hindering efforts to screen and analyze possible precursor crimes for linkages to larger-scale terrorist activities.

State officials are also concerned about other federal changes, policies and programs. The following list includes some of the most frequently raised issues.

- State officials believe that the federal vulnerability assessment tool required and used in the fall 2003 homeland security assessment process was flawed and created false expectations of funding for state and local partners.
- State and local officials are concerned by the lack of a uniform information classification system among federal agencies, such as the secret and top secret designations, and related security clearance protocols. Many state and local officials lack the required security clearances, and the classification of federal documents and information often varies from agency to agency.
- Since 2001, federal sources of information and types of information have increased, overwhelming state law enforcement agencies. For example, states are receiving tips, warnings and watch-lists from multiple federal agencies such as the FBI and Departments of Defense and Homeland Security. This influx of information is challenging states to discern valuable information.
- States are concerned about various aspects of the federal homeland security grant program, including their inability to use federal money for personnel costs; stringent planning deadlines that do not provide states with sufficient time to collaborate with state, regional and local partners; and the Urban Areas Security Initiative (UASI) program's undermining of state and regional planning efforts.
- Although there is consensus that participating on Joint Terrorism Task Forces is extremely positive, two prevalent concerns among states include the resource demands, such as personnel and time, and the lack of valuable or usable information from federal partners.
- States are faced with a growing need for intelligence analysts and investigators. At the same time, it appears they are losing strong candidates and trained law enforcement personnel to the federal government, exacerbating the void of skilled analysts and investigators at the state and local levels.

Project staff also met with local law enforcement officials in each of the case study locations to hear their perspectives about state and federal policies and practices.

Interviews were conducted with sheriffs, municipal police chiefs, homeland security staff and local sheriff and police associations.

From the perspective of local police officers and their day-to-day work, the post-Sept. 11 era has brought about two primary changes. First, they appear to have a heightened awareness of suspicious activities and are more apt today than before 2001 to investigate and report these activities. Second, training has increased for most police officers in preparation for new emergency response situations such as conventional, chemical, biological and radiological attacks.

Many concerns with federal policies and programs are common among state and local law enforcement officials. Two unique issues surfaced, however, during interviews with local officials.

- *Homeland security grant programs and procurement.* A few states are experiencing friction with local units of government in the planning and distribution of federal grants. Local agencies cite grant distribution delays and a lack of transparency with the state's planning and governance processes as contributing factors. The procurement of homeland security equipment is a concern among some, but not all local agencies. Many local agencies are pursuing joint contracts with the state and other local agencies to leverage their purchasing power to obtain uniform equipment at discounted prices. Other police departments view their needs as unique or wish to buy more locally produced equipment.
- *Shifting federal grant programs.* New terrorism-related demands and resources are now competing with other national public safety priorities, placing a strain on local law enforcement agencies. Local officials cite drug enforcement and community policing initiatives as two local priorities that are being affected by shifting federal programs. For example, drastic cuts have been made to the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant and Community Oriented Policing Services programs, which once provided critical support to local and state community policing initiatives and drug enforcement and treatment efforts.

Chapter Four: Where Should States Focus Future Efforts?

CSG and ECU convened two meetings of an expert work group of state, local and federal officials in October and December 2004. This 30-person group examined the survey and case study results, identified intergovernmental issues and needs, and formed recommendations for state policy-makers and law enforcement officials. The work group drafted and formed consensus on 39 recommendations to improve terrorism prevention and response capabilities at the state level and to provide long-term direction for policy-makers. Twenty-five recommendations provide guidance for state officials, while the other 14 suggest future action for intergovernmental issues and needs.

The work group examined a broad range of alternatives to improve terrorism prevention and response at the state level. In doing so, the group recognized the importance of integrating new terrorism-related demands into the existing criminal justice framework, taking into account other law enforcement priorities, infrastructure and systems. Likewise, these other resources and assets should be mobilized to aid in the fight against terrorism. Furthermore, cooperation among the entire law enforcement community is imperative for progress.³⁰

The following suggestions for states are ranked by urgency and potential impact for addressing critical counterterrorism issues and needs. As states develop strategies concerning terrorism prevention and to a lesser extent, emergency response, they should consider the following recommendations.

Intelligence and Protection

(1) **Establish an intelligence fusion center to improve the collection, analysis and dissemination of information and intelligence for purposes of terrorism and crime prevention and control.**

Discussion: Consensus among law enforcement experts suggests that improved intelligence sharing and analysis at the state level benefits national terrorism prevention efforts as well as local crime prevention strategies. To this end, state and local law enforcement agencies must identify means to gather and analyze disparate networks of information more effectively and efficiently.³¹ The centralization of intelligence sharing and analysis at the state level, through one physical center or network of facilities, provides such a means. Among other benefits, intelligence fusion centers:

- enable and promote the sharing of information and intelligence among state agencies, between states and across intergovernmental boundaries;
- promote the development and implementation of uniform intelligence policies, practices, information systems and networks;
- foster terrorism and crime prevention strategies by centralizing analysis functions and responsibilities, thus incorporating the “all crimes” approach;
- serve as a “one-stop shop” in the state for the referral of suspicious activity and clarification of intelligence information; and
- build trust and relationships among key intelligence stakeholders.

When developing and implementing intelligence or fusion centers, states should consider the following recommendations developed by the Fusion Center Focus Group, a sub-group of the Global Intelligence Working Group:

- *Governance and Oversight.* States should establish a fusion center governance structure that adequately represents all participating agencies. At a minimum, this governance structure should develop governance bylaws, a mission statement that reflects the specific goals and objectives of the fusion center

and memorandums of agreement for all participating agencies and stakeholders.

- *Collaboration and Partnership.* States should integrate state, regional (intra- and inter-state), local (urban and rural), tribal and federal law enforcement agencies into the fusion center framework. To this end, states should locate all participants together to improve communication and overcome technological, cultural and jurisdictional barriers. This integrated approach should include other criminal justice stakeholders and systems such as probation and parole information networks. Additionally, states should consider consolidating or closely integrating new intelligence centers with the FBI-led Joint Terrorism Task Forces.
- *Funding.* States should consider a broad range of fusion center funding options, including, but not limited to federal grant programs, forfeiture-related funds and resources, intergovernmental cost-sharing methods and public-private partnerships.
- *Policies and Procedures.* Fusion centers should follow the guidelines and tenets outlined in the *National Criminal Intelligence Sharing Plan*. In addition, they should use formalized policies and procedures to clarify roles and responsibilities, ensure consistency and accountability and reduce liability. Privacy policies should be established in order to balance law enforcement's need to share information with the privacy rights of citizens.
- *Security.* States should consider a broad range of security-related issues when developing fusion centers such as authentication, access control and confidentiality. Security clearances should be obtained for all participating fusion center personnel.
- *Personnel and Staff.* States should consider a balanced fusion center work force, including sworn and non-sworn personnel to conduct all necessary intelligence, investigations and analytical functions. Intelligence analysts are a critical fusion center component, providing support to investigators and customers that lack analytical tools and resources. Additionally, fusion centers should adhere to the training objectives outlined in the *National Criminal Intelligence Sharing Plan*.
- *Connectivity.* In developing the information network for new fusion centers, states should consider leveraging existing systems and those currently under development. Moreover, states should ensure that new information systems or databases are XML-compliant and meet existing standards.
- *Databases and Tools.* States should examine the needs for analytical services and intelligences products. This needs assessment will determine critical data

sets and data gathering techniques. In doing so, states should leverage existing databases and information systems when appropriate and practical.

(2) **Pursue and invest in specialized intelligence analysts and analytical tools to provide a sustained counterterrorism capability, expertise and focus.**

Discussion: Consensus among experts suggests that improved intelligence analysis at all levels of government will greatly contribute to the terrorism and general crime prevention mission. According to the *National Criminal Intelligence Sharing Plan*, “Analysis is the portion of the intelligence process that transforms the raw data into products that are useful ... without this portion of the process, we are left with disjointed pieces of information to which no meaning has been attached.”³² Traditionally, the function of gathering, analyzing and sharing intelligence in state government falls under the investigative arm of the state law enforcement agency and has been extremely reactive to crimes. Today, terrorism and crime prevention missions require a much more proactive approach to identify terrorists before they act and to deter or interdict acts before they occur. To meet this new need, states should pursue specialized intelligence analysts and improved analytical tools.

(3) **Identify a lead entity (e.g., department, agency, office) to coordinate the state’s critical infrastructure and key asset protection responsibilities.**

Discussion: According to CSG’s 50-state survey, more than 55 percent of state law enforcement agencies have a great amount of involvement or serve as their state’s lead agency for conducting critical infrastructure and vulnerability assessments. State officials, however, are generally unclear about state and local level responsibilities for conducting vulnerability assessments, determining critical infrastructure and key assets, and monitoring the implementation of protective measures. Therefore, states should identify a lead entity to help establish clear lines of responsibility and provide coordination, including:

- identifying critical infrastructure and key assets;
- standardizing and conducting vulnerability and risk assessments;
- determining adequate protective and control measures and responsibilities;
- monitoring compliance with established protective and control measures; and
- serving as liaison with the Department of Homeland Security’s Protective Security Advisors as well as other levels and agencies of government.

Intergovernmental and Public-Private Cooperation

(4) **Draft and implement a statewide counterterrorism program for the law enforcement community that supports the state’s homeland security strategy.**

Discussion: The work group recognizes the important roles played by the entire law enforcement community in terms of terrorism prevention and response. These new demands require unprecedented cooperation among all law enforcement

entities concerning the sharing of information and intelligence and coordinated training. However, law enforcement relationships and responsibilities continue to be assessed and redefined, and will evolve due to the changing nature of terrorist threats, prevention needs and transforming operations and tactics. To effectively adjust to these changing conditions and provide clarity of purpose for the different levels of law enforcement, states should develop and implement a statewide counterterrorism program with the following objectives:

- to establish statewide terrorism-prevention objectives (e.g., establish standards and performance measures, identify critical infrastructure and key assets, conduct risk and vulnerability assessments, share and analyze information and intelligence);
- to establish priorities, roles and specific tasks under each objective and for all levels of law enforcement and appropriate private sector organizations;
- to identify and plan for threats, risks and vulnerabilities in each state;
- to facilitate communication within the law enforcement community;³³
- to improve the allocation of resources by linking them to required tasks that support the counterterrorism program; and
- to mutually design exercises and training scenarios involving multiple agencies and homeland security disciplines.

Furthermore, the work group recommends that states take a lead and convening role in the development and implementation of this program and involve all appropriate state, local and federal law enforcement stakeholders in the process. The development and implementation of this program should be sanctioned by the appropriate legislative or executive authority in each state (e.g., statute, executive order, proclamation).

(5) **Develop standardized training programs and tools for state and local law enforcement agencies to improve terrorism prevention and response capabilities.**

Discussion: According to a homeland security presidential directive issued in December 2003, preparedness is defined as “the existence of plans, policies, procedures, training and equipment necessary at the federal, state and local level to maximize the ability to prevent, respond to, and recover from major events.”³⁴ Today, each state conducts in-service training for law enforcement officers, but training standards and activities vary among states. National training standards should be developed for state and local law enforcement personnel to achieve a baseline level of preparedness. Furthermore, states should consider computer-based programs and tools, using CD-ROM and Web-based methods. States should also consider train-the-trainer and other distributed learning methods and tools to achieve widespread application.

(6) **Implement regional approaches for homeland security planning and operational purposes.**

Discussion: Creating regions or zones helps to remove or reduce local jurisdictional barriers for operational purposes and may enhance homeland security planning efforts and the distribution of federal grants. Regions typically consist of multiple counties and municipalities that follow pre-existing health, law enforcement or emergency management structures or share common resources and geographic characteristics. Among other benefits, regional approaches help:

- unite local planning efforts;
- identify local communities of interest and regional needs;
- identify state roles (e.g., assets, resources, capabilities) depending on regional needs;
- foster intrastate and interstate assistance agreements and compacts;
- foster regional cooperation and the acquisition and integration of interoperable equipment and communications systems;
- promote cost-sharing to maximize states' use of funds;
- capitalize on economies of scale (e.g., states may purchase higher quantities and more sophisticated equipment if it will be used by multiple jurisdictions/users);
- promote information and intelligence sharing and critical infrastructure protection;
- create a network for regional knowledge sharing; and
- facilitate state management of homeland security strategies, activities and grant programs.

States should consider aligning regions with an interest in homeland security such as health, emergency management, fire and police, to facilitate homeland security planning, administration and coordination.

(For further discussion of state regional homeland security structures, please see Addendum I.)

- (7) **Build partnerships with key residential, commercial property owners and security personnel and provide them with resources and tools to identify and report suspicious activities.**

Discussion: Providing communities with the resources and tools to report suspicious activities and other information of interest is a critical component to preventing acts of terrorism. Landlords, retail owners and security personnel typically know their properties, residents and employees much better than law enforcement agencies. Therefore, partnerships between law enforcement and these groups and associations provide the necessary means to disseminate information and build mutual understanding and trust.

- (8) **Develop and implement a public education and outreach plan that establishes and formalizes public information policies and procedures that relate to terrorism prevention and response.**

Discussion: Public education and outreach is a critical component of each state's terrorism prevention and response strategies. However, many states lack formal plans and procedures that address risk communication, issuance of warnings and instructions, and guidance for businesses and community leaders. A public education and outreach plan, at a minimum, should:

- issue warnings, watchlists, bulletins and other instructions to state and local government entities;
- provide guidance and instructions to businesses and the public at large on identifying and reporting suspicious activities;
- delineate the homeland security advisory system and provide recommended responses for local governments, businesses and the public;
- update local governments, businesses and the public on homeland security activities; and
- inform local governments, businesses and the public about volunteer and community service opportunities and additional sources of information.

(9) **Provide technical assistance and training to local governments on the application and administration of homeland security grants.**

Discussion: Generally, federal grant programs and processes are not fully understood by local law enforcement agencies. Furthermore, many local agencies are overwhelmed with stringent planning and processing deadlines. They may lack the administrative and planning resources and support to fully engage and participate in homeland security grant programs. In response, states should examine existing outreach strategies and collaborate with local agencies to develop improved means of assistance and support. Regional grant planning is one solution. States should also consider ways they can use visiting technical assistance teams comprised of state-level planners and administrators to respond to requests for assistance.

(10) **Explore methods to improve communication and collaboration among state law enforcement agencies on national and regional levels.**

Discussion: State agencies are playing critical roles in terrorism preparedness. They are assuming many new responsibilities, in addition to providing critical assistance to local police departments and sheriffs' offices. Most often, they are the critical link between local and federal law enforcement efforts and are leading new statewide intelligence sharing and analysis efforts. Despite these demands, however, few mechanisms exist to bring these agencies together to foster the sharing of practices. Informal partnerships have surfaced among states and also within given regions. However, little organizational knowledge and support for these efforts exists. State and federal leaders should examine current mechanisms to assist state law enforcement agencies such as partnerships and professional organizations, target shortcomings and gaps, and identify solutions to improve communication and collaboration across state lines.

(11) Identify rural law enforcement challenges and solutions, particularly those surrounding agricultural security.

Discussion: State officials face unique challenges in rural areas. First, there is a general lack of urgency among many people in rural areas because of a perceived lack of threat and risk from terrorism. Second, local police departments lack personnel and resources to participate in state-level activities including homeland security planning and operations. In general, rural areas tend to rely highly on state agencies for general law enforcement support. As a consequence, new demands are placed on state agencies in conducting homeland security education, outreach and operations in rural areas. Agricultural security should be given high priority by law enforcement agencies in rural areas. Due diligence requires that state and local law enforcement officials understand responsibilities and procedures for responding to cases of foreign animal and plant diseases.

(12) Support and participate in Joint Terrorism Task Force (JTTF) structures and activities.

Discussion: Consensus among law enforcement experts suggests that FBI-led Joint Terrorism Task Forces foster improved cooperation among law enforcement partners toward terrorism preparedness. Although each of the 66 local JTTFs rely on a common intergovernmental approach, each task force is managed and structured differently, with varying levels of participation by state and local law enforcement officials. This flexibility helps the FBI adapt to and address state and local characteristics and nuances. In return, states should continue to support and promote JTTF activities with local governments and agencies. Additionally, some states are locating new state-level intelligence centers with their resident JTTF. States should ensure that intelligence centers are closely linked to JTTFs, regardless of location.

Integration with the Criminal Justice System

(13) Recognize and embrace the “all crimes” approach for terrorism prevention.

Discussion: Consensus among law enforcement officials suggests that a nexus exists among types of criminal activity, including illegal drug operations, money laundering, fraud, identity theft and terrorism. Therefore, states should embrace an “all crimes” approach to terrorism prevention. This strategy ensures that possible precursor crimes are screened and analyzed for linkages to larger-scale terrorist activities. Furthermore, experts believe that terrorists will behave like fugitives if pressured by law enforcement from many different levels and angles. Thus, terrorists will become vulnerable by resorting to criminal activity to support terrorist-related operations. Emergency management professionals utilize a similar approach (“all hazards”) for emergency response and preparedness.

(14) **Develop and implement protocols to leverage all criminal justice and regulatory personnel, resources and systems in identifying and reporting precursor crimes.**

Discussion: States would benefit from improved communications and connectivity to the criminal justice system at large. State and local law enforcement agencies are taking lead roles in building states' intelligence sharing and analysis capabilities. It is widely accepted that terrorists are often involved in other criminal activities or precursor crimes to help finance operations, gather equipment and goods and prevent detection. Identifying terrorists who enter the criminal justice system is one critical method of detection. Therefore, improved connectivity between criminal justice information and resources and states' counterterrorism operations would assist in identifying terrorists. To this end, states should:

- **Develop and promote training programs for state and local law enforcement agencies and prosecutors in identifying and reporting suspicious activities and precursor crimes.** According to the Bureau of Justice Statistics, there were roughly 700,000 full-time, sworn state and local law enforcement personnel in 2000. These personnel work closely with approximately 3,000 prosecutors' offices nationwide on gathering and processing criminal evidence. New training programs should be developed and implemented to assist these agencies and offices in reporting suspicious activities and identifying precursor crimes.
- **Develop methods and systems to scan court-related cases and documents for precursor crimes and other security-related information.** Probation officials are generally responsible for preparing pre-sentence investigations (PSI) for the courts. These documents typically provide judges with a criminal history of the accused, circumstances surrounding a crime and other information relevant to sentencing or bail decisions. PSIs, bail determination forms and other court documents could be modified to assist prosecutors and other law enforcement officials in identifying homeland security-related information.
- **Identify reporting indicators and procedures for probation and parole officers and explore partnerships among the law enforcement and probation and parole communities.** About 80,000 probation and parole officers nationwide must work closely with neighborhood groups, including those in ethnically diverse communities. Correctional officers generally maintain excellent situational awareness due to these partnerships and regular home visits. With proper training, probation and parole officers could serve as an extra set of "eyes and ears" in communities to report suspicious activities and possible signs of terrorist activity.

- **Identify reporting indicators and procedures for state and local regulatory agencies such as health and human services, social services, licensing agencies and housing authorities, on identifying and reporting suspicious activities.** Like corrections officials, many state and local regulatory agencies and personnel work in urban and rural communities. With training and resources, these government officials could also provide valuable information to law enforcement and security officials regarding suspicious activities.

(15) Pursue a balanced state law enforcement work force, assigning personnel with specialized skills and expertise for terrorism prevention to general or all-purpose law enforcement efforts.

Discussion: This recommendation is grounded on two premises. First, there is a clear need to educate and train specialized analysts for the counterterrorism mission. The risks and stakes associated with acts of terrorism are very high and a dedicated work force prevents “mission creep” into other crime-fighting efforts. Second, law enforcement officials believe there is a nexus among types of criminal activity, including illegal drug operations, money laundering, fraud, identity theft and terrorism. These relationships are unclear. However, criminal activity and cases need to be analyzed for linkages to possible terrorist organizations, persons and activities. Therefore, states should strive to meet a baseline prevention capacity, and otherwise capitalize on general crime-fighting resources.

Governance and Legal Issues

(16) Examine and update state laws to aid in terrorism prevention and response efforts.

Discussion: State and local law enforcement agencies will prevent future terrorist attacks only by identifying and investigating suspicious activities and persons, analyzing precursor crimes for their association to larger terrorism efforts and sharing critical information among agencies. Statutory provisions and their associated authorities (or lack thereof) may hinder or enhance these efforts. States have enacted and continue to explore statutory provisions that strengthen their state and local law enforcement’s capabilities to fight terrorism without overstepping constitutional boundaries. To further enhance these efforts, states should review and refine statutes related to terrorism and security, and they should seek promising models from other states, including:

- freedom of information and public record laws for intelligence files and critical infrastructure information;
- access to vital records such as birth and death certificates;
- search, seizure and privacy laws;
- investigations of suspicious activity;
- isolation and quarantine laws;

- sharing of information and intelligence among law enforcement and non-law enforcement entities;
- use-of-force laws for the protection of critical infrastructure and key assets; and
- financial incentives to stimulate security reforms among private-sector partners such as tax incentives.

(17) Establish a principal point of oversight and review for homeland security through legislative committee or multibranch commissions.

Discussion: In many states, legislative oversight is provided through individual disciplines and policy areas such as agriculture, military affairs, public health and public safety. Like the 9/11 Commission's recommendation for consolidated oversight at the federal level, states should examine and restructure legislative committees where necessary to enhance awareness and oversight of homeland security activities. Furthermore, states should consider holding periodic informative meetings of top executive and legislative leaders, and forming multibranch commissions to evaluate and assess homeland security progress. In establishing these committees and commissions, states should consider instances to convene closed meetings as well as the confidentiality of sensitive information.

(18) Codify the state's strategic homeland security planning structures, processes and responsibilities into law.

Discussion: Relationships and responsibilities among homeland security stakeholders continue to evolve due to the changing nature of terrorist threats, prevention and response needs, and transforming operations and tactics. State-level roles continue to be assessed and redefined. Exacerbating these challenges is a general lack of clarity regarding states' overall homeland security mission. To effectively adjust to these changing conditions and provide clarity of purpose for homeland security stakeholders, states should codify certain aspects of the homeland security mission into law. Example sections include: key terms and definitions; roles and responsibilities of the homeland security director/coordinator; strategic planning processes and stakeholders; regional structures, functions and processes; and general duties and responsibilities for the primary state-level stakeholders such as agriculture, emergency medical care, emergency management, fire service, law enforcement, military, public health, public utilities and rescue.

(19) Examine and update public records laws to ensure the adequate protection of private-sector information and documents gathered or sent for homeland security purposes.

Discussion: Private companies own and operate more than 85 percent of the nation's critical infrastructure and key assets. Developing partnerships with the private sector is critical to identifying vulnerabilities and mitigating risks. To help

foster this partnership for homeland security, states should ensure that industry sensitive information is held in confidence.

- (20) **Draft a comprehensive volume of Model State Terrorism Laws to provide states with a benchmark for measuring the effectiveness of existing counterterrorism statutes.**

Discussion: States have enacted and are considering statutory provisions that strengthen their state and local law enforcement’s capabilities to fight terrorism. According to a survey by the American Prosecutors Research Institute in 2003, 45 states had passed 67 new statutes concerning terrorism since 2001, creating an aggregated total of 143 new offenses at the state level. New statutes address precursor crimes; threats, hoaxes and false reports; actual incidents; and investigations and prosecutions. However, a collection and comprehensive evaluation of these new law enforcement and prosecutorial tools and authorities is lacking. An expert group of state policy-makers, practitioners and academic experts should be convened to identify promising statutory provisions and make recommendations of model state terrorism laws to the states. Model state laws provide policy-makers with a research-based benchmark of promising statutes to evaluate existing counterterrorism laws. Not only do they provide states with meaningful ideas; they also promote wide-spread implementation by translating good ideas into usable language consistent among the states.

Other Homeland Security Priorities

- (21) **Ensure the sustainability of homeland security initiatives.**

Discussion: As a condition of accepting funds, states should ensure that state and local agencies have plans in place to sustain newly acquired equipment and capabilities for the long term. Future homeland security grant proposals and initiatives, therefore, should sufficiently demonstrate these long-term obligations, strategies and plans.

- (22) **Adopt and support the National Incident Management System (NIMS) and Incident Command System (ICS).**

Discussion: According to the *9/11 Commission Report*, “emergency response agencies nationwide should adopt the Incident Command System.”³⁵ Established through *Homeland Security Presidential Directive/HSPD-5* (Management of Domestic Incidents), the National Incident Management System enables “responders at all levels to work together more effectively and efficiently to manage domestic incidents no matter what the cause, size or complexity, including catastrophic acts of terrorism and disasters.”³⁶ States should adopt and integrate NIMS and ICS into all response planning, training and exercises.

- (23) **Enhance the integrity of driver’s license documents and systems by supporting national standards for physical security features and state-level issuance requirements.**

Discussion: The 9/11 Commission recommends that standards be developed for “the issuance of birth certificates and sources of identification, such as driver’s licenses.”³⁷ Many public documents of identification such as driver’s licenses, birth and death certificates are managed at the state level. Today, states are feverishly working to improve security features on these documents and refine issuance requirements. Additionally, states are developing and implementing new technologies and training for police officers to better identify fraudulent driver’s licenses. States should continue these improvements and pursue national standards for physical security features and state-level issuance requirements. Security features on the driver’s license document should include nationally accepted biometrics and standards.

- (24) **Adhere to the “dual-use” rule of thumb for the purchase and procurement of homeland security equipment.**

Discussion: Equipment purchases at the state and local levels should serve a “dual-use” or provide value to homeland security and other more general public safety functions. States must take innovative approaches to the procurement of equipment in an era of general scarcity of resources and high demands for public safety. Furthermore, homeland security equipment purchases should provide optimal use and value to the law enforcement community.

- (25) **Promote and advance the U.S. Department of Homeland Security’s Lessons Learned Information Sharing (LLIS) network to state and local stakeholders.**

Discussion: The Lessons Learned Information Sharing (LLIS) system is a national network of lessons learned and best practices for homeland security officials at all levels of government including law enforcement. Managed by the National Memorial Institute for the Prevention of Terrorism, LLIS contains secure and restricted-access information designed to facilitate efforts to prevent and respond to acts of terrorism across all disciplines. Additional efforts should be made to expand and promote LLIS to include all criminal justice stakeholders and resources.

What issues and needs require an intergovernmental approach?

Cooperation among state, local, tribal and federal law enforcement agencies and the private sector is critical to the progress and success in thwarting and responding to future acts of terrorism. Since 2001, law enforcement agencies have generally enjoyed unprecedented levels of cooperation. For example, the FBI-led Joint Terrorism Task

Forces build key partnerships and foster the sharing of information and intelligence across intergovernmental and jurisdictional boundaries. Many issues exist in states that require a national law enforcement effort, led by the federal government or the states collectively, such as the need for uniform standards. To address these issues, the work group recommends the following intergovernmental actions.

Intelligence Sharing and Analysis

(1) **Implement the new-generation Joint Regional Information Exchange System (JRIES) as the primary system of exchange for intelligence and tactical information.**

Discussion: The Joint Regional Information Exchange System (JRIES) allows multiple jurisdictions and disciplines to receive and share intelligence information and tactical information. The new-generation JRIES, entitled the Homeland Security Information Network (HSIN), provides a platform for state, local and federal partners to share sensitive but unclassified and secret information. This new system supports the law enforcement and counterterrorism missions, while providing connectivity to other partners including state homeland security advisors, adjutants general, and emergency operations centers. Key state and federal law enforcement agencies including the FBI should adopt and implement JRIES/HSIN through the national Joint Terrorism Task Force and state intelligence center structures.

(2) **Develop standards for information classification and security clearance systems.**

Discussion: State and local officials are concerned about the lack of a uniform information classification system among federal agencies (e.g., top secret, secret) and related security clearance systems. Many state and local officials need, but lack, security clearances, and the classification of federal documents and information often varies from agency to agency. In 1995, the president signed *Executive Order 12968* (Access to Classified Information), which stated that “background investigations and eligibility determinations conducted under this order shall be mutually and reciprocally accepted by all agencies.”³⁸ However, the interpretation and implementation of this order varies widely among federal departments and agencies, affecting the handling of information among state and local agencies. An examination of this order and improvements to the information classification and security clearance systems in general is needed with input from federal intelligence agencies as well as state and local governments. Ultimately, standards will ensure that stakeholders and decision-makers at all levels of government receive and disseminate information and intelligence in an effective, consistent and timely manner.

(3) **Develop a National Intelligence Strategy and Plan that incorporates state and local assets.**

Discussion: States are generally unclear about their specific roles and responsibilities in the national intelligence framework. Despite this lack of clarity and direction, states are developing innovative policies and procedures to address the intelligence shortfalls and gaps. A National Intelligence Strategy and Plan should be developed to prevent stovepipe systems among the states and to clarify the intelligence roles and relationships among federal agencies (e.g., CIA, DHS, DOD, DOJ). Additionally, this strategy and plan should address the spectrum of intergovernmental and public-private relationships and information sharing, especially those that exist among state-level systems.

- (4) **Develop information and intelligence gathering, as well as analysis and dissemination standards for the state and local law enforcement communities.**

Discussion: The Global Justice Information Sharing Initiative produced and disseminated the *National Criminal Intelligence Sharing Plan* in April 2004, providing a national framework for intelligence-sharing standards. The Criminal Intelligence Coordinating Council and Global Intelligence Working Group continue work on identifying barriers and solutions to improving national intelligence operations. Additional efforts should be made to promote and advance this work across the states.

- (5) **Develop national training and education standards for intelligence analysts.**

Discussion: The Global Intelligence Working Group is pursuing efforts to develop intelligence training standards for intelligence analysts, intelligence managers, law enforcement executives and general law enforcement officers. Additional efforts should be made to promote and advance this work across the states. Furthermore, a lack of educational standards and programs for intelligence analysts exists. An educational needs assessment should be conducted that includes an examination of existing academic programs across the country.

- (6) **Expand the pool of qualified state-level intelligence analysts.**

Discussion: A current shortage of resources, knowledge and experience of intelligence analysts at the state and local levels exists. Therefore, a national education and training program should be developed that highlights and utilizes existing intelligence-related schools, academies and curriculums. This national program should provide general and specialized training opportunities for intelligence analysts at all levels of government. Furthermore, a program that cross-trains and cross-places federal intelligence analysts with state and local governments and vice versa for a determined period of time would foster knowledge sharing among federal, state and local partners and build mutual understanding.

(7) **Establish a State and Local Intelligence Advisory Council to advise the new Director of National Intelligence.**

Discussion: A State and Local Intelligence Advisory Council, equivalent to the Homeland Security Advisory Council, should be established with several key purposes: advance and promote the work of the Global Intelligence Working Group; advise national leaders on state and local intelligence matters; and represent the interests of state and local governments in the development and implementation of national intelligence policies and practices. Similar to the Homeland Security Advisory Council, which provides advice and recommendations to the Secretary of Homeland Security on state and local matters, this council should be comprised of leaders from state and local governments and the private sector. Ultimately, this council should be responsible for making specific recommendations to federal leaders on improving domestic intelligence operations at the state and local levels.

(8) **Develop an accreditation program for state and local terrorism prevention, intelligence sharing and analysis programs.**

Discussion: An accreditation program should be developed based on compliance with national standards for terrorism prevention, intelligence sharing and analysis. Compliance should be demonstrated through self-assessment, documentation, and an on-site assessment by an independent team of assessors. Such a program would allow state and local governments to demonstrate compliance with prevention and intelligence sharing and analysis standards, and also encourage the examination of strengths and weaknesses. The Emergency Management Accreditation Program and Commission on Accreditation for Law Enforcement Agencies should be examined as possible models. Ultimately, the accreditation program would strengthen the states' capabilities to prevent future acts of terrorism.

Other Intergovernmental Issues and Needs

(9) **Restore support for state and local law enforcement and criminal justice programs that support drug enforcement and community policing initiatives.**

Discussion: Today, state and local law enforcement agencies are required to address many new terrorism-related demands in addition to fulfilling traditional law enforcement duties. These agencies are allocating personnel and resources toward FBI-led Joint Terrorism Task Forces, intelligence sharing and analysis, border and port security operations, commercial vehicle enforcement, and security of critical infrastructure and dignitaries. These new demands and needed resources, however, should not compete with other national public safety priorities. National drug enforcement and community policing initiatives, for example, continue to be high priorities for states. Two key programs, the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant and

Community Oriented Policing Services program, provided critical support for these national priorities and should be restored.

- (10) **Provide adequate law enforcement staffing at the state and local levels to handle expanded homeland security responsibilities and shifts from the federal level.**

Discussion: New intelligence-related demands, activities associated with FBI-led Joint Terrorism Task Forces, and increasing roles in combating counterterrorism have strained state personnel. In addition, shifting federal law enforcement priorities have forced state and local agencies to assume greater responsibilities for other previously held federal responsibilities such as financial crimes, bank robberies and gangs. To adequately address these new demands and shifts from the federal level to states, funding should be provided to states for hiring criminal intelligence professionals such as analysts, researchers and crime-mappers.

- (11) **Provide flexibility to states concerning the planning and administration of homeland security grant programs.**

Discussion: The Homeland Security Advisory Council's Task Force on State and Local Homeland Security Funding published a report in June 2004, outlining a series of recommendations for all levels of government on improving the planning and administration of grant programs. In the spirit of these recommendations, homeland security grant programs should provide states with flexibility to apply funds pursuant to goals and objectives spelled out in each state's homeland security strategy. In addition, this task force or some other mechanism should be utilized for ongoing and timely review and feedback concerning problems or issues with grant planning and processing.

- (12) **Develop a uniform vulnerability assessment model and tool.**

Discussion: A homeland security presidential directive was issued in December 2003, stating that "the secretary shall produce a National Plan for Critical Infrastructure and Key Resources Protection ... which shall include a strategy to identify, prioritize, and coordinate the protection of critical infrastructure and key resources."³⁹ Many state and local law enforcement officials believe that the federal vulnerability assessment tool required and used in the fall 2003 homeland security assessment process was flawed and created false expectations of funding for state and local partners. An improved model and tool should be developed in consultation with state and local law enforcement agencies, which takes into account the following factors: the unique makeup of each state; the dynamic nature of threats; and the outcome and data needs for all levels of government. Outcome and data needs include quantitative and qualitative outputs that inform state and local decision-makers about their allocation of resources and specific target-hardening measures such as thresholds for damage and likelihood of attack.

Once the new tool is developed, a national training and support structure should be created to provide consistent training and technical assistance.

- (13) **Develop a national database or information system that identifies, describes and assigns responsibility for the protection of critical infrastructure and key assets.**

Discussion: State and local officials have a responsibility to identify critical infrastructure and key assets, conduct vulnerability assessments, determine protective measures and monitor compliance with protective measure plans. Assessments must now be completed on a regular basis by officials at all levels of government. This new demand, along with the need to frequently track and monitor critical infrastructure activities, requires a new interactive tool that identifies, describes and assigns responsibility for the protection of critical infrastructure and key assets.

- (14) **Consider state homeland security strategies and plans for future grant programs.**

Discussion: Every state has developed a comprehensive strategy, associated plans that identify goals to address terrorism prevention and response, and action plans to meet these objectives. Many national programs are being developed and implemented with little regard for these state-level strategies and plans. As a result, important state-level work and partnerships within and among states have been undermined. Future programs should give greater credence to state homeland security strategies and planning structures.

Chapter Five: Conclusions

Limitations and constraints

The breadth of this research project was extensive, using quantitative and qualitative techniques to gather information from the states. In addition to the survey that sought quantitative data from state and local officials, a number of interviews were conducted with law enforcement and homeland security officials during each case study examination. The qualitative segment of the project also included a group of 30 public officials, which convened twice to help interpret and translate survey and case study findings into tangible policy recommendations for state officials. Altogether, these components helped to piece together a view of conditions facing state police organizations in the post-Sept. 11 era.

Despite the use of these diverse methods, limitations are inherent with any research project, and this study was no exception. First, it is important to recognize the differences among states and the different roles and structures of state law enforcement agencies, especially when comparing data from all 50 states. For example, border states with large tourism industries have different homeland security needs than non-border states that are

predominantly rural and oriented toward agriculture. Similarly, states with large urban areas are unique compared with those with only mid- to small-sized cities. State police organizations may play lead roles in some states and only supporting ones in others.

For the purposes of this study, the research team assumed that states and their police organizations were sufficiently similar and, therefore, comparable. There was one exception – the principal investigators did make a distinction among state police, highway patrols and bureaus of investigation for some analyses. The selection and implementation of the case studies did account for many of these differences.

Second, there were a number of limitations or unknowns with the 50-state survey of state and local police agencies.

- The entire population of general-purpose state police organizations numbered 73. Surveys were mailed to the directors of state bureaus of investigation and highway patrol departments. Only one survey was mailed, however, to states with one general-purpose agency that unified these functions. Recognizing these differences, project staff included the response option of “not applicable” on survey questions.
- Accuracy of responses is always an issue with survey work. For example, respondents may have felt inclined to respond to the allocation of resource questions without considering actual budget figures or number of personnel and hours.
- The aim of the survey questions was to gather a description of the new terrorism-related roles and changing conditions. The survey did not attempt to gather information on causal relationships or factors driving the noted changes.
- The primary method used in the survey to gauge the impact of terrorism on state law enforcement is a comparison of conditions before and after Sept. 11. The research team recognizes that other factors may be affecting a state police agency’s allocation of resources other than new terrorism-related demands, such as new drug problems, identity theft, shifting federal priorities or limited state budgets.

Third, the interviews with law enforcement and homeland security officials during the five case study examinations provided the project team with valuable qualitative information not gleaned from the survey. Participants included state and local law enforcement and homeland security executives, many of whom are political appointees. A number of interviews were also conducted with non-executives and lower-level decision-makers. The interviews with lower-level personnel sometimes surfaced many more issues and problems than those with the executives, suggesting that the lower-level personnel had different experiences and perspectives, the executives were less candid, or a combination of both. Nevertheless, project staff conducted many interviews in each state, thus helping to piece together a better picture of changing conditions.

Finally, CSG convened a work group of experts to help interpret the research results and translate identified issues and needs into tangible recommendations for state policy-makers. The work of this group was constrained by resources and time. The project allowed for two meetings of a 30-person work group, with some additional communication between meetings. This group of public officials represented nearly half

of the states, including perspectives from state, local and federal law enforcement, state and local prosecutors, homeland security officials and the private sector. Although productive, two meetings provided the work group with relatively little time to analyze the survey and case study results and to deliberate on each issue and recommendation.

Needs for further research and policy work

This project surfaced many needs for further research and policy work that, if pursued, would assist state law enforcement agencies and other homeland security stakeholders in their efforts to better prepare for, prevent and respond to acts of terrorism. The following provides a description of the most notable research needs.

Need #1: An examination of the “terrorism prevention” responsibility, including an analysis of state and federal definitions, commonly accepted activities and “terrorism prevention” standards.

Most states list “terrorism prevention” and “intelligence analysis and sharing” among their top homeland security priorities. However, a clear understanding of terrorism prevention activities does not exist. For example, many states classify the following activities under the rubric of “prevention”: intelligence analysis and sharing; vulnerability assessments; target hardening; the protection of public and private assets and infrastructures; and interdiction activities. Others do not use the term “prevention” and develop unique classifications for these important activities. In order to evaluate state and local “prevention” programs, it is first necessary to help states define the term “prevention”; identify common and generally accepted activities toward “terrorism prevention”; determine how “terrorism prevention” relates to law enforcement’s understanding of “crime prevention” and where activities overlap; and develop minimum standards for “terrorism prevention.”

Although it is generally accepted that preventing future acts of terrorism is an important responsibility for state and local law enforcement, states vary on definitions, interpretations and activities. Furthermore, states are seeking ways to integrate “terrorism prevention” into other “crime prevention” activities. This research would assist them in finding those relationships or linkages.

Need #2: The development of standards and training programs for intelligence analysts.

As mentioned in Chapter Three, state and local law enforcement agencies face increasing needs for new intelligence-related analysts and investigators, in addition to a variety of analytical tools to support them in mining data and translating it into usable intelligence. Faced with an exorbitant amount of information and demand for valuable outputs and products, police organizations are searching for methods to gather data from many sources; assimilate that data and look for patterns and points of interest; and transform that information into usable products for top-level decision makers and field investigators. States are struggling, however, to define standards for these analytical processes and products as well as the requisite skills, education and training for new

analysts. Current efforts to develop intelligence-related standards should be expanded and further promoted to address these needs.

Need #3: An examination of the nexus among terrorism and other criminal activity, including illegal drug operations, money laundering, fraud and identity theft.

States are taking an “all crimes” approach to terrorism prevention, incorporating it within the general crime prevention framework. Making the linkages among more traditional crimes and terrorism, however, appears to be extremely difficult. There is a shortage of research about the precursor crimes-terrorism nexus. Evidence is needed suggesting how certain types of crimes are more or less prone to supporting terrorism-related activities. Otherwise, law enforcement analysts and investigators are likely scanning very broadly for linkages, wasting precious time and resources. More concrete evidence would help law enforcement home in on those crimes that have the greatest chance for supporting terrorist-related activities.

Need #4: An examination of state regional structures, requirements and innovative solutions.

It is generally accepted that states should pursue regions or zones to remove or reduce local jurisdictional barriers for operational purposes and to enhance homeland security planning efforts and distribution of federal grants (See work group recommendation six). Many states today are struggling, however, to form these regions and foster local cooperation. Also, it is believed that some federal grant programs such as the Urban Areas Security Initiative undermine regional planning efforts by supporting local jurisdictions directly. Additional research into the development of regions and the roles they play across the states would benefit those looking to start a regional effort or improve an existing structure. Such an effort would provide the federal government with a better understanding of state-level planning requirements to improve future homeland security grant programs. Furthermore, the FBI and other federal law enforcement agencies would gain a better understanding of new regional operational structures and how they may be used to help support counterterrorism activities. (For further discussion of state regional homeland security structures, please see Addendum I.)

Need #5: An examination of interstate and international agreements to improve terrorism prevention and response capabilities.

Many states are pursuing agreements with neighboring states or bordering provinces in neighboring countries for terrorism-related purposes. These agreements and compacts authorize and promote mutual aid and resource sharing, the sharing of intelligence and information, out-of-state investigations and partnerships for training and exercises. These efforts point to a larger need to study the jurisdictional obstacles that appear to exist among states within the counterterrorism framework, and suggest solutions by way of model memorandums of agreement and interstate compacts. The development of model agreements would assist states that are seeking to collaborate with neighboring states but are struggling to overcome legal barriers. Intelligence sharing and the use of out-of-state

law enforcement resources for terrorism-related purposes are two areas that would benefit from such a study. (For further discussion of interstate agreements to improve terrorism prevention and response capabilities, please see Addendum II.)

Final considerations

Today, state police organizations are taking many lead and supporting roles in the realm of terrorism prevention. They provide a critical information sharing and analysis capability at the state level and a link between local and federal authorities. Their role is especially important in rural areas of states where resources are scarce. Thus, they provide a critical link among large and small local agencies.

In addition, state troopers patrol the interstate and state highways and serve as “eyes and ears” for suspicious activities, and would play a critical role in managing mass evacuations and aid for disaster areas. State police continue to play important roles guarding border crossings, seaports, airports and critical infrastructure. Furthermore, their specialized services such as SWAT, K-9 units and air and marine assets are often requested at the local level and are important assets to deter, interdict and respond to acts of terrorism.

Besides these new terrorism-related responsibilities, evidence indicates that state law enforcement agencies are also being asked to fill vacuums created by the shifting priorities of federal law enforcement agencies. State patrol and investigative agencies are playing a larger role in relation to drug enforcement, bank robberies, major crime investigation, high tech/computer crime and other traditional law enforcement activities.

This study also revealed the growing complexity of the state police operating environment in the post-Sept. 11 era. Not only do state police remain the linchpin between federal law enforcement agencies and many local agencies, they report substantially increased interactions with a long list of federal agencies, from the military to the Federal Aviation Administration and Secret Service. They are also working ever more closely with other state agencies, such as agriculture, public health and National Guard, in addition to private security and the private sector. Plus, they are invariably heavily involved in their state’s homeland security planning and coordination apparatus.

In short, the world of state law enforcement has become incredibly more complex and demanding during the past several years. Not long ago, it would have been commonplace to regard the state police as perhaps the last bastion of old-style, traditional law enforcement. Those days are now gone.

State policy-makers should be informed about these changing conditions, as well as the risks that accompany them. For example, should drug enforcement resources be sacrificed at the expense of terrorism prevention? What new structures, capabilities and resources benefit both responsibilities? Police organizations are becoming more proactive through new information-led policing initiatives and tools such as crime mapping. Can state-level fusion centers support these new general crime fighting initiatives?

Today, a tremendous opportunity exists for states to leverage their law enforcement resources to prevent future acts of terrorism and to improve overall public safety.

For additional information about this project, please visit: www.csg.org (keyword: protect).

Appendices

Appendix A: Homeland Security Update

This 20-month research project took place between October 2003 and June 2005. CSG's survey was conducted during the early months of 2004, followed by five case study examinations that summer. Meanwhile, much has changed at the federal and state levels regarding homeland security, the nation's response to terrorism and new public safety needs. The research team recognizes the likely influence of these changes on the project findings, conclusions and recommendations. Nevertheless, this report accurately reflects the analysis and conclusions drawn from the data and information gathered in 2004. The following provides examples of recent policy efforts that may help address a number of state police needs identified in this report.

December 2003 – National preparedness directive. Homeland Security Presidential Directive – 8 required the development of a national domestic preparedness goal that “will establish measurable readiness priorities and targets that appropriately balance the potential threat and magnitude of terrorist attacks, major disasters, and other emergencies with the resources required to prevent, respond to, and recover from them.”⁴⁰ Readiness or preparedness is defined by the capabilities in place to prevent and respond to a host of critical threats and hazards. An Interim National Preparedness Goal was issued in March 2005.

February 2004 – Expansion of JRIES. DHS announced the expansion of its computer-based counterterrorism communications system to all states and major urban areas to strengthen its flow of threat information.⁴¹ Using the Joint Regional Information Exchange System or JRIES, each state and major urban area will have access to DHS' Homeland Security Operations Center and the information it regularly disseminates. During this study, a common concern among state officials was the lack of a single source of terrorism-related information from the federal government. Once fully integrated into the Homeland Security Information Network, JRIES may offer this needed source of information for state and local law enforcement agencies.

March 2004 – National Incident Management System. In 2003, HSPD-5 required the development of a comprehensive national framework for incident management, otherwise known as the National Incident Management System or NIMS. This new system or approach to emergency management enables “responders at all levels to work together more effectively and efficiently to manage domestic incidents no matter what the cause, size or complexity, including catastrophic acts of terrorism and disasters.”⁴² Beginning in

FY 2005, state and local governments were required to adopt NIMS as a prerequisite for receiving federal preparedness funds.

June 2004 – Funding Task Force issues recommendations. Established in March 2004 by the Homeland Security Advisory Council, the Homeland Security Funding Task Force released a series of recommendations for expediting the flow of homeland security funds to state and local governments. According to the report, the task force focused its efforts on three areas: examining the funding process to understand why there have been delays; examining and cataloging best practices; and providing specific recommendations to eliminate “choke points” that impede the timely distribution of funds.⁴³ State police are much more involved today in planning for and managing the flow of federal homeland security grants, consuming time and resources. If implemented, these recommendations may help to alleviate many of the grant-related concerns among state officials.

July 2004 – 9/11 Commission Report. The *9/11 Commission Report* set forth broad policy recommendations for the nation in preventing and preparing for future terrorist attacks.⁴⁴ Many of the commission’s key findings impact the states, including recommendations involving state and local law enforcement; driver’s licenses and identification cards; formulas for homeland security funding; emergency management structures; and standards, technology and the private sector. Specifically, the report acknowledges the need for heightened intergovernmental cooperation in terrorism prevention efforts. Today, Congress appears to be acting on many of these recommendations.

October 2004 – FY 2005 Homeland Security Appropriations Act. The act provides \$28.9 billion in net discretionary spending for the Department of Homeland Security, and state and local law enforcement agencies are eligible for grants authorized under this appropriation.⁴⁵ Among other grant opportunities, state police applied for and began receiving funds in 2005 through the State Homeland Security Program and Law Enforcement Terrorism Prevention Program. Although state law enforcement agencies will likely see just a small portion of these funds, roughly \$1.5 billion was allocated to states for these two programs in 2005.⁴⁶

December 2004 – National Response Plan. The secretary of homeland security released a new National Response Plan in December 2004 as directed through HSPD-5.⁴⁷ The plan aims to unify the federal government’s response structures and mechanisms for improving coordination with and the provision of assistance to state and local officials during emergency situations.

March 2005 – Interim National Preparedness Goal. As required through HSPD-8, DHS released the Interim National Preparedness Goal, establishing readiness priorities, targets and metrics for the country.⁴⁸ The goal includes seven national priorities, including the implementation of the National Incident Management System and National Response Plan; expansion of regional collaboration; and implementation of the Interim National Infrastructure Protection Plan. The interim goal is the policy vehicle for

establishing required capabilities at all layers of government and among the disparate homeland security disciplines.

Appendix B: Glossary of Common Terms

Agroterrorism - Infiltration and destruction of a society's food source through the contamination of livestock or the sabotage of grains. – Studies in Conflict and Terrorism

Analysis - The review of information and its comparison to other information to determine the meaning of the data in reference to a criminal investigation or assessment. – National Criminal Intelligence Sharing Plan, 2005

Bioterrorism - The intentional or threatened use of viruses, bacteria, fungi, or toxins from living organizations to produce death or disease in humans, animals, or plants. – Centers for Disease Control and Prevention

Border Security - Preventing terrorists and potentially destructive equipment and substances from entering the country through all ports of entry to include land, air and sea.

Community Policing - A collaborative effort between the police and the community that identifies problems of crime and disorder and involves all elements of the community in the search for solutions to these problems. – Community Policing Consortium

Computer Crimes (Cybercrimes) - Any crime perpetrated through the use of a computer technology. Also, any violation of a federal or state computer-crime statute. – Criminal Justice Today

Counterterrorism - In this report, the term "counterterrorism" is defined broadly to mean states' defensive measures used to reduce the vulnerability of individuals and property to terrorist acts in addition to offensive measures taken to prevent, deter and respond to terrorism.

Critical Asset - An asset that supports national security, national economic security and/or crucial public health and safety activities.

Critical Infrastructure - Systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters. – USA Patriot Act

Dissemination - The release of information, usually under certain protocols. – National Criminal Intelligence Sharing Plan, 2005

Forensic Science - The search for and examination of physical traces which might be useful for establishing or excluding an association between someone suspected of committing a crime and the scene of the crime or victim. – The Forensic Science Society

Infrastructure Protection - Proactive risk management actions intended to prevent a threat from attempting to or succeeding at destroying or incapacitating critical infrastructure, the physical and virtual systems that support and house critical services.

Intelligence - Information that has been analyzed to determine its meaning and relevance. Information is compiled, analyzed and/or disseminated in an effort to anticipate, prevent, or monitor criminal activity. – National Criminal Intelligence Sharing Plan, 2005

Internet Fraud - Any type of fraud scheme that uses one or more components of the Internet - such as chat rooms, e-mail, message boards or Web sites - to present fraudulent solicitations to prospective victims, to conduct fraudulent transactions, or to transmit the proceeds of fraud to financial institutions or to others connected with the scheme. – U.S. Department of Justice

Identity Theft - A crime in which an imposter obtains key pieces of information, such as Social Security and driver's license numbers, to obtain credit, merchandise and services in the name of the victim. – The Identity Theft Resource Center

Interstate Compacts - Legal agreements and contracts among states.

Joint Terrorism Task Forces - Teams of state and local law enforcement officers, FBI Agents and other federal agents and personnel who collaborate to investigate and prevent acts of terrorism. Led by the FBI, there are 66 JTTFs across the country today. – Federal Bureau of Investigation

Model Legislation - State legislation developed to effect uniformity of law between states.

Organized Crime - The unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including gambling, prostitution, loan-sharking, narcotics and labor racketeering, and in other unlawful activities. – The Organized Crime Control Act of 1970

Physical Security - Actions taken for the purpose of restricting and limiting unauthorized access, specifically, reducing the probability that a threat will succeed in exploiting critical infrastructure vulnerabilities including protection against direct physical attacks.

Precursor Crimes - Offenses that may be precursors to terrorist offenses such as identity theft, money laundering and counterfeit identification. – American Prosecutors Research Institute

Public Health - The ability to medically respond to acts of terrorism to include biological, radiological and chemical exposure as well as incendiary and explosive acts against the civilian population.

Terrorism - The unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. – Code of Federal Regulations

Threat - Any circumstance or event with the potential to harm a system through unauthorized access, destruction and/or denial of service.

Threat Assessment - A strategic document, which looks at a group’s propensity for violence or criminality, or the possible occurrence of a criminal activity in a certain time or place. – National Criminal Intelligence Sharing Plan, 2005

Vulnerability - A characteristic of a critical infrastructure’s design, implementation or operation that renders it susceptible to destruction or incapacitation by a threat.

Vulnerability Assessment - An examination of the ability of a system or application, including current security procedures and controls, to withstand assault. Also, a strategic document which views the weaknesses in a system that might be exploited by a criminal endeavor. – National Criminal Intelligence Sharing Plan, 2005

Appendix C: Survey Instruments and Percent Distributions

Note: In addition to the choices below, respondents were provided with the option of “not applicable.” The following percent distributions only reflect the responsibilities or functions applicable to the state and local agency respondent. Also, many similar responses are combined below. For example, the choice of “much fewer resources” and “fewer resources” are combined into “fewer or much fewer resources.”

State Law Enforcement Survey

Part A. (Please place an “X” in the appropriate box in each row.)

In response to the threat of terrorism since September 11, 2001, our agency’s **allocation of resources** to various operational law enforcement responsibilities (listed below in alphabetical order) has been affected as follows:

	Much fewer resources	Fewer resources	No change	More resources	Much more resources	N/A for our agency
1. Airport security						
2. Border security						

3. Commercial vehicle enforcement						
4. Community policing						
5. Drug enforcement and investigation						
6. Forensic science/crime lab services (including DNA)						
7. Investigation of high-tech/computer crime						
8. Investigation of local agencies (use of force, corruption, etc.)						
9. Operational assistance to local agencies (assisting with investigations, etc.)						
10. Port security						
11. Preventive patrol						
12. Responding to calls for service						
13. Security for critical infrastructure (state capitol, power plants, etc.)						
14. Security for special events & dignitaries						
15. Intelligence gathering, analysis and sharing						
16. Terrorism-related investigations						
17. Traditional criminal investigation						
18. Traffic safety						
19. Other:						
20. Other:						

Part B. (Please place an “X” in the appropriate box in each row.)

The following items pertain to your agency’s *relationships with federal agencies* today, as compared with the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. The participation of federal agencies in drug investigations in our state has:					
2. The participation of federal agencies in high-tech/computer crime investigation in our state has:					
3. The participation of federal agencies in traditional criminal investigation (e.g., bank robberies) in our state has:					
4. The involvement of federal agencies					

in providing support services to state and local police (training, TA, etc.) in our state has:					
5. Our own agency's assignment of personnel to federal task forces (i.e., JTTFs) has:					
6. Our own agency's involvement in immigration-related investigations and enforcement has:					

7. Please describe the most significant post-9/11 changes in ***federal law enforcement activity*** in your state:

8. What is the most important thing that ***federal agencies*** should do, or do more of, or do better in order to improve your state's terrorism preparedness?

9. What impact do orange and red advisory levels have on your agency?

Part C. (Please place an "X" in the appropriate box in each row.)

The following items pertain to your agency's ***relationships with local law enforcement agencies*** today, as compared to the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. Local agency requests for assistance from our agency in drug investigations have:					
2. Local agency requests for assistance from our agency in high-tech/computer crime investigation have:					
3. Local agency requests for assistance from our agency in traditional criminal investigations have:					
4. Local agency requests for our agency to provide training and TA have:					
5. Local agency requests for assistance from our agency with traffic safety and traffic enforcement have:					
6. Local agency requests for our agency to provide forensic science/crime lab assistance have:					
7. Local agency requests for our agency to provide emergency response/SWAT assistance have:					
8. Local agency requests for our agency to provide aviation or marine assistance have:					
9. Local agency requests for our agency to provide bomb squad					

assistance have:					
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10. Please describe the most significant post-9/11 changes in *local law enforcement requests* for state-agency assistance in your state:

11. What is the most important thing that *local agencies* should do, or do more of, or do better in order to improve your state’s terrorism preparedness?

Part D. (Please place an “X” in the appropriate box in each row.)

Today, as contrasted with the period before September 11, 2001, our agency’s *interactions with specific federal agencies* (listed below in alphabetical order) are:

	Much less frequent	Less frequent	No change	More frequent	Much more frequent	N/A for our agency
1. ATF						
2. Border patrol						
3. Centers for Disease Control and Prevention (CDC)						
4. CIA						
5. Coast Guard						
6. Customs						
6. DEA						
7. Federal air marshals						
8. Federal Aviation Administration (FAA)						
9. FBI						
10. FEMA						
11. Immigration						
12. IRS						
13. National Guard						
14. National Security Agency (NSA)						
15. Office for Domestic Preparedness (ODP)						
16. Postal Inspectors						

17. Secret Service						
18. U.S. Marshals						
19. Other:						
20. Other:						

Part E. (Please place an “X” in the appropriate box in each row.)

Over the past two years, what has been *your agency’s level of involvement* in your state’s homeland security initiatives?

Our agency ...	No involvement	Very little	Moderate amount	Great amount	Our agency is the leader
1. Source of homeland security announcements for the public					
2. Distribution of our state’s federal homeland security funding					
3. Coordinates homeland security activities in the state.					
4. Serves as state’s primary contact to DHS and other federal agencies for homeland security					
5. Conducting critical infrastructure, key asset, and vulnerability assessments					
6. Homeland security training for law enforcement					
7. Homeland security education/training for the public					
8. Homeland security planning for the state					
9. Terrorism-related intelligence gathering, analysis, and dissemination					
10. Emergency response to terrorism-related incidents					
11. Protection of dignitaries					
12. Protection of critical infrastructure					

Each state has organized homeland security differently. What is the role of these agencies in your state’s homeland security structure?

	This is our state’s lead agency	Playing a major role	Playing a minor role	No role at all
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13. State police/highway patrol				
14. State investigative agency/bureau				
15. National guard/military affairs				
16. State emergency services agency				
17. New homeland security agency/office				
18. Other:				

Part F. (Please place an “X” in the appropriate box in each row.)

Please indicate how the individual state officer’s or investigator’s duties and responsibilities have been affected by the homeland security mission:

	Strongly disagree	Disagree	Unsure	Agree	Strongly agree	N/A for our agency
1. The individual officer’s/investigator’s duties and responsibilities have changed very little						
2. Officers/investigators have significant new responsibilities in responding to terrorist events						
3. Officers/investigators have significant new responsibilities in terrorism-related intelligence gathering						
4. Officers/investigators have significant new responsibilities in vulnerability assessment in their assigned areas						
5. Officers/investigators have significant new responsibilities in educating and mobilizing the community for homeland security						
6. Officers/investigators have significant new responsibilities in investigating terrorist acts						

Part G. (Please place an “X” in the appropriate box in each row.)

Please indicate the degree of impact that homeland security has had on various organizational functions in your agency.

	No impact	Some impact	Substantial impact	N/A for our agency
1. Field services (patrol)				

2. Investigations				
3. Intelligence				
4. Crime prevention				
5. Crime analysis				
6. Planning				
7. Grants management				
8. Crime lab				
9. Criminal records/criminal histories				

Part H. Please describe (briefly) *your agency's top priority* in each of the following aspects of homeland security in your state:

1. Planning (state strategies, vulnerability assessment, contingency planning, distribution of funding, etc.)
2. Training
3. Equipment (HAZMAT, decontamination, etc.)
4. Communications (interoperability, data, command and control, etc.)
5. Prevention/Protection (infrastructure protection, community mobilization, etc.)
6. Intelligence/Information (intelligence gathering and analysis, sensor monitoring, etc.)
7. Response/Recovery (primary and secondary response to incidents and disasters)
8. Investigation/Prosecution (proactive and reactive investigation of incidents and crimes)

Part I. Overall Assessments

1. What legal issues hinder your agency's progress in homeland security?
2. What has your agency sacrificed in order to address terrorism preparedness?
3. What is your agency's biggest contribution to your state's terrorism preparedness?

4. What is the most important thing that *your agency* should do, or do more of, or do better in order to improve your state’s terrorism preparedness?
5. What are the biggest obstacles to improving homeland security in your state?
6. What innovative technologies, practices, and/or programs have you developed and implemented to improve homeland security in your state?
7. What other homeland security “lessons learned” or “best practices” would you like to share with others, based on your state’s experience?

Part J. (Please place an “X” in the appropriate box in each row.)

The following items pertain to your agency’s *relationships with the private sector* today, as compared to the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. Interactions with contract security guard companies have:					
2. Interactions with representatives of corporate security have:					
3. Interactions with security services companies (alarms, armored cars) have:					
4. Interactions with private companies about the security of their facilities have:					
5. Interactions with private companies about their workers (background checks, security concerns) have:					

Local Law Enforcement Survey

Part A. (Please place an “X” in the appropriate box in each row.)

In response to the threat of terrorism since September 11, 2001, our agency’s *allocation of resources* to various operational law enforcement responsibilities (listed below in alphabetical order) has been affected as follows:

	Much fewer resources	Fewer resources	No change	More resources	Much more resources	N/A for our agency
1. Airport security						
2. Border security						
3. Commercial vehicle enforcement						
4. Community policing						
5. Drug enforcement and investigation						
6. Investigation of high-tech/computer crime						
7. Port security						
8. Preventive patrol						
9. Responding to calls for service						
10. Security for critical infrastructure (gov’t offices, power plants, etc.)						
11. Security for special events and dignitaries						
12. Intelligence gathering, analysis and sharing						
13. Terrorism-related investigations						
14. Traditional criminal investigation						
15. Traffic safety						
16. Other:						
17. Other:						
18. Other:						

Part B. (Please place an “X” in the appropriate box in each row.)

The following items pertain to your agency's *relationships with federal agencies* today, as compared to the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. The participation of federal agencies in drug investigations has:					
2. The participation of federal agencies in high-tech/computer crime investigation has:					
3. The participation of federal agencies in traditional criminal investigation (e.g., bank robberies) has:					
4. The involvement of federal agencies in providing support services to local police (training, TA, etc.) has:					
5. Our own agency's assignment of personnel to federal task forces (i.e., JTTFs) has:					
6. Our own agency's involvement in immigration-related investigations and enforcement has:					

7. Please describe the most significant post-9/11 changes in *federal law enforcement activity* in your jurisdiction:

8. What is the most important thing that *federal agencies* should do, or do more of, or do better in order to improve your state's terrorism preparedness?

9. What impact do orange and red advisory levels have on your agency?

Part C. (Please place an "X" in the appropriate box in each row.)

The following items pertain to your agency's relationships with *state law enforcement agencies* today, as compared to the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. State agency assistance in drug investigations has:					
2. State agency assistance in high-tech/computer crime investigation has:					
3. State agency assistance in traditional criminal investigations has:					
4. State agency provision of training and TA has:					
5. State agency assistance with traffic safety and traffic enforcement has:					

6. State agency provision of forensic science/crime lab assistance has:					
7. State agency provision of emergency response/SWAT assistance has:					
8. State agency provision of aviation or marine assistance has:					
9. State agency provision of bomb squad assistance has:					

10. Please describe the most significant post-9/11 changes in *state-level law enforcement assistance* to your agency:

11. What is the most important thing that *state law enforcement agencies* should do, or do more of, or do better in order to improve your agency’s terrorism preparedness?

Part D. (Please place an “X” in the appropriate box in each row.)

Today, as contrasted with the period before September 11, 2001, our agency’s *interactions with specific federal agencies* (listed below in alphabetical order) are:

	Much less frequent	Less frequent	No change	More frequent	Much more frequent	N/A for our agency
1. ATF						
2. Border patrol						
3. Centers for Disease Control and Prevention (CDC)						
4. CIA						
5. Coast Guard						
6. Customs						
6. DEA						
7. Federal air marshals						
8. Federal Aviation Administration (FAA)						
9. FBI						
10. FEMA						
11. Immigration						
12. IRS						

13. National Guard						
14. National Security Agency (NSA)						
15. Office for Domestic Preparedness (ODP)						
16. Postal Inspectors						
17. Secret Service						
18. U.S. Marshals						
19. Other:						
20. Other:						

Part E. (Please place an “X” in the appropriate box in each row.)

Please indicate how the individual officer’s duties and responsibilities have been affected by the homeland security mission:

	Strongly disagree	Disagree	Unsure	Agree	Strongly agree	N/A for our agency
1. The individual officer’s duties and responsibilities have changed very little						
2. Officers have significant new responsibilities in responding to terrorist events						
3. Officers have significant new responsibilities in terrorism-related intelligence gathering						
4. Officers have significant new responsibilities in vulnerability assessment in their assigned areas						
5. Officers have significant new responsibilities in educating and mobilizing the community for homeland security						
6. Officers have significant new responsibilities in investigating terrorist acts						

Part F. (Please place an “X” in the appropriate box in each row.)

The following items pertain to your agency’s *relationships with the private sector* today, as compared to the period before September 11, 2001.

	Significantly decreased	Decreased	No change	Increased	Significantly increased
1. Interactions with contract security guard companies have:					
2. Interactions with representatives of corporate security have:					
3. Interactions with security services companies (alarms, armored cars) have:					
4. Interactions with private companies about the security of their facilities have:					
5. Interactions with private companies about their workers (background checks, security concerns) have:					

Part G. Please describe (briefly) *your agency's top priority* in each of the following aspects of homeland security:

9. Planning (strategies, vulnerability assessment, contingency planning, etc.)
10. Training
11. Equipment (HAZMAT, decontamination, etc.)
12. Communications (interoperability, data, command and control, etc.)
13. Prevention/Protection (infrastructure protection, community mobilization, etc.)
14. Intelligence/Information (intelligence gathering and analysis, sensor monitoring, etc.)
15. Response/Recovery (primary and secondary response to incidents and disasters)
16. Investigation/Prosecution (proactive and reactive investigation of incidents and crimes)

Part H. Overall Assessments

8. What legal issues hinder your agency's progress in homeland security?
9. What has your agency sacrificed in order to address terrorism preparedness?

10. What is the most important thing that *your agency* should do, or do more of, or do better in order to improve your jurisdiction's terrorism preparedness?
11. What are the biggest obstacles to improving homeland security in your jurisdiction?
12. What innovative technologies, practices, and/or programs have you developed and implemented to improve homeland security in your jurisdiction?
13. What other homeland security "lessons learned" or "best practices" would you like to share with others, based on your jurisdiction's experience?

Endnotes

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- ¹ The survey aimed to assess the change in interaction with federal agencies before and after Sept. 11. Therefore, the former Immigration and Naturalization Service was used during the survey rather than the new Immigration and Customs Enforcement agency within the U.S. Department of Homeland Security.
 - ² The term "counterterrorism" refers to the states' defensive measures used to reduce the vulnerability of individuals and property to terrorist acts (antiterrorism) in addition to offensive measures taken to prevent, deter and respond to terrorism.
 - ³ The Federal Bureau of Investigation, "Facts and Figures 2003," <<http://www.fbi.gov/priorities/priorities.htm>> (27 January 2005).
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ADDENDUM I

Regional Solutions for Enhanced Public Safety: Strengthening Terrorism Prevention and Emergency Response Capabilities

December 2005

The Council of State Governments

Through support from the National Institute of Justice

Nearly one year after responding to the September 11, 2001 terrorist attacks in Arlington County, local and state law enforcement and public safety officials from the National Capital Region were involved in another emergency situation that demanded unprecedented levels of cooperation. Two sniper suspects terrorized the region for three weeks in October 2002, forcing law enforcement personnel from more than 30 local, state and federal law enforcement agencies to work collectively to investigate the repeated killings, and to identify and arrest the perpetrators.¹

While the attacks on the Pentagon in 2001 primarily involved one crime scene and a massive emergency response operation, the sniper incident resulted in multiple crime scenes and a mix of other prevention and response activities. Despite these differences, one common requirement surfaced in both situations – the need for a coordinated, regional public safety effort.

Regions generally refer to multijurisdictional areas that unite public officials to address common problems, identify communities of interest, and improve the quality and delivery of public services.² Today, states are developing and implementing regional approaches to strengthen public safety. “Creating regions or zones helps to remove or reduce local jurisdictional barriers for operational purposes,” states a June 2005 report by The Council of State Governments.³ Furthermore, many local jurisdictions lack the resources needed to prevent and respond to a full array of hazards and threats, as well as the expertise needed to conduct homeland security planning. For these and other reasons, states are turning to regions as an alternative.

Despite the benefits of regionalization, a lack of clarity exists about the meaning of regional preparedness and activities that help foster cross-jurisdictional collaboration. Standards and methods to measure regional progress are relatively nonexistent. In addition, research and literature describing public safety regions and the mechanisms used for building regional capacities are lacking.

In 2005, CSG conducted research of 20 regional efforts in 20 states, gleaned information from a series of phone interviews and a variety of online documents such as state and urban area homeland security strategies. A comparison of the data reveals similarities and differences in regions’ structural characteristics as well as in their:

- use of existing planning efforts,
- authority and membership, and
- coordination and operational roles.

The following sections describe these variations and generally explore the notion of regional preparedness. With this information, state and local leaders will be better equipped to make strategic improvements to their terrorism prevention and emergency response policies and practices. It is also the aim of this study to help stimulate and guide future research into regional public safety efforts.

What is regional preparedness?

There are two common goals associated with regional public safety efforts – enhanced preparedness and good governance. As Hurricane Katrina showed in 2005, catastrophic events often impact areas well beyond traditional state and local boundaries. Therefore, preparations for and improvements to emergency response and recovery operations should account for such large-scale events. In sports jargon, regional public safety officials must “practice like they play.” Enhanced regional preparedness is viewed best in light of two questions:

- What added value is created on a regional level that may not be achieved among disparate local jurisdictions acting individually?
- How do regional activities help to identify and overcome jurisdictional barriers so that terrorism prevention and emergency response operations are conducted seamlessly?

In addition to enhanced preparedness, regional efforts provide opportunities for state and local jurisdictions to do more with less. For example, regional approaches help promote cost-sharing to maximize states’ use of funds and capitalize on economies of scale by purchasing larger quantities of sophisticated equipment at lower overall costs.⁴ Administrative grant functions may also be centralized at the regional level, saving personnel costs among local jurisdictions. These cost savings, in turn, may be reinvested to address other public safety or public policy priorities.

Regional approaches are common around metropolitan areas⁵ because of their high population densities, critical infrastructure, and risks for being targeted by terrorists. In fact, the draft *National Preparedness Goal*, October 2005, defines a region as “a geographic area consisting of contiguous state, local, and tribal entities located in a whole or in part within a designated planning radius of a core high threat urban area.”⁶ However, states should be careful not to overlook rural areas as candidates for regionalization because:

- it provides local jurisdictions with the potential to leverage scarce homeland security resources and knowledge;
- evacuation and emergency response in vast and, often times, isolated areas is extremely challenging;
- there are unique threats and vulnerabilities within the agricultural industry, a predominantly rural network of producers and manufacturers;⁷ and
- natural disasters are more likely to devastate non-metropolitan areas, which comprise approximately 75 percent of the total U.S. land area.⁸

For these and other reasons, state and local officials should consider developing regions in urban and rural areas alike.

Among other possible methods, coordination is an integral activity in achieving enhanced preparedness. In September 2004, the Government Accountability Office issued a report outlining several factors that characterize effective coordination. GAO defined regional coordination as “[t]he use of government resources in a complementary way toward goals and objectives that are mutually agreed upon by various stakeholders in the region.”⁹ A prerequisite for effective regional coordination, however, is that local government units within the region achieve high levels of preparedness themselves.¹⁰ In other words, the coordination of resources cannot take place at the regional level unless those resources are known and organized at the local level.

The coordination that takes place on the regional level is often centered on sharing resources and information. Regional response and recovery operations require the sharing of personnel, equipment and facilities in an almost seamless fashion. Therefore, many regional planning and coordination efforts focus on developing or improving policies that govern the use of these resources.¹¹

Similarly, enhanced information sharing across jurisdictional boundaries leads to improved situational awareness and, therefore, decision making. Regional efforts help jurisdictions identify hazards and threats that exist outside of their jurisdictions. For example, an attack on a nearby chemical plant may impact multiple jurisdictions. The destruction of a dam upstream may have consequences for downstream jurisdictions, requiring mitigation strategies and plans. Regional efforts also help transfer best practices and professional experiences, increasing overall preparedness.

Regional characteristics

Although strong theoretical arguments for regional public safety approaches exist, regional practices can be plagued by a host of interjurisdictional challenges. The CSG project team conducted research of 20 regions in 20 states to better understand regional characteristics and complexities. In addition to online research, the team conducted phone interviews with regional stakeholders to answer questions about the regional efforts. Ten regions were selected from the U.S. Department of Homeland Security’s FY2005 list of Urban Areas Security Initiative regions. The UASI Program aims to “address the unique planning, equipment, training, and exercise needs of high-threat, high-density urban areas.”¹² In addition, the project team studied 10 states segmented into regions for terrorism prevention and emergency response purposes; research was focused on the non-metropolitan regions in these states.

Table: Research sample of UASI regions and statewide regional efforts

Urban Areas Security Initiative (UASI) regions:	Statewide regional efforts:
Charlotte, North Carolina	Arizona
Cincinnati, Ohio	Florida

Dallas/Fort Worth, Texas	Iowa
Denver, Colorado	Illinois
Louisville, Kentucky	Massachusetts
Minneapolis, Minnesota	New Jersey
Portland, Oregon	Oklahoma
San Diego, California	Pennsylvania
St. Louis, Missouri	Utah
Washington, D.C. (National Capital Region)	Washington

Among other results, evidence supports the following findings:

- At least 14 of 16 regions exist as part of statewide terrorism prevention and emergency response effort. All of the non-metropolitan regions are organized under a statewide regional effort. Charlotte, Portland, St. Louis and Washington, D.C., span multiple states and are discounted from this review.
- Seven of 10 UASI regions closely overlap with a single integrated local jurisdictional entity such as a county. All non-metropolitan regions span multiple local jurisdictions.
- Public safety-oriented regions are formed across a mix of existing regional efforts. Two of five metropolitan regions that are part of a voluntary “council of governments” structure utilize those governance, planning and coordination entities for public safety purposes. Non-metropolitan regions follow similar patterns.
- Most regional authorities are voluntary associations of local jurisdictions and derive authority through a mix of state and local statutes, governors’ executive orders, memoranda of agreement and understanding, and the participation of local elected officials and top-level executives.
- Public safety-oriented regions generally conduct more planning and coordination than operational activities.

Variables affecting regional cooperation

Similar to any study or comparison of states, regional public safety efforts possess unique qualities that make it difficult to generalize about them, especially when these variables are not accounted for and controlled on some level. For example, the techniques regional stakeholders consider and implement to foster regional cooperation may differ significantly depending on the number and composition of member states and local jurisdictions. One approach to account for these structural variables is to separate regions into the following four groups:

- *Multi-state regions or metropolitan regions that encompass local jurisdictions in more than one state.* In this analysis, four of the UASI regions – Charlotte, Portland, St. Louis and Washington, D.C. – span multiple states. The National Capital Region, for example, includes the District of Columbia and counties and municipalities in Maryland and Virginia.

- *Regions that closely overlap with a single local jurisdiction.* The Cincinnati, Louisville and San Diego UASI regions are primarily defined within the boundary of a single county or metro government. Also, some states may argue that their local government structure already fosters regional planning and coordination. Arizona, for example, has a vast land area – the sixth largest in the nation – and only 15 counties to help coordinate state-local homeland security planning and coordination.
- *Metropolitan regions that do not overlap with a single local jurisdiction.* The local jurisdictions that compose seven of 10 UASI regions in this review are not part of a single local jurisdictional entity.
- *Non-metropolitan regions that do not overlap with a single local jurisdiction.* All non-metropolitan regions in this review span multiple local jurisdictions.

Future studies of regional efforts should account for a multitude of variables, such as population numbers and densities, geographic and meteorological characteristics, the presence of critical infrastructure and assets, the level of authority granted to local jurisdictions through state constitutions and statutes, and regional goals and objectives.

Discounting these variables, a review of the 20 public safety regions results in the identification of similarities and differences dealing with the use of existing regions, authority and membership, and the mix of planning and operations. Special emphasis is placed on regions that are made up of more than a single county or metro government.

Use of existing regions

Public safety-oriented regions have formed across a mix of existing regional efforts. Two of five metropolitan regions that are part of a voluntary “council of governments” structure utilize those governance, planning and coordination entities for public safety purposes. Although some go by other names such as “regional planning commissions,” there are more than 600 regional “council of governments” entities in the United States that exist for a myriad of public policy purposes such as regional land and growth management, water and transportation planning.¹³

The National Capital Region, for example, utilizes the Metropolitan Washington Council of Governments for a range of public safety and homeland security planning and coordination purposes. In fact, MWCOG has approximately 41 separate homeland security and public safety committees covering different aspects of corrections, police intelligence and communications, emergency management, and fire planning and operations.¹⁴

The Dallas/Fort Worth UASI region utilizes a similarly robust “council of governments” structure for public safety planning purposes. The North Central Texas Council of Governments includes 16 counties and other local government units surrounding Dallas and Fort Worth. Emergency preparedness is one of many priorities for the council.¹⁵

However, not all urban areas with “council of governments” entities appear to use them for public safety purposes. Cincinnati, Denver and Portland, for example, are part of “council of governments” entities – the Ohio-Kentucky-Indiana Council of Governments, Denver Regional Council of Governments, and Greater Portland Council of Governments respectively. These UASI regions do not appear to use those planning structures for public safety purposes.

It is likely that the non-metropolitan regions are part of a statewide regional effort, and many new terrorism prevention and emergency response regions overlap with other existing regions “to make planning and coordination easier and to minimize administrative costs.”¹⁶ For example, Pennsylvania’s nine Regional Counter-Terrorism Task Forces were created in a bottom-up process that considered existing local mutual-aid alliances, multiple state agency districts such as police, environmental and public health, and federal jurisdictions including the Federal Bureau of Investigation and Environmental Protection Agency.¹⁷

Colorado, on the other hand, established All-Hazards Emergency Management Regions in 2003 to “coordinate the state’s efforts to prevent and respond to potential terrorist attacks in Colorado.”¹⁸ These All-Hazards Emergency Management Regions are different from the Colorado State Patrol’s and Bureau of Investigation’s districts.¹⁹

Authority and membership

There are a number of different authorities, incentives and disincentives that states and local jurisdictions use to help foster regional collaboration.

The National Capital Region may be the only region to derive authority from federal law; the Homeland Security Act of 2002 and Title 10 of the United States Code defines the NCR’s geographic area and membership.²⁰ Regions utilizing a “council of governments” such as the Dallas/Fort Worth UASI region may obtain authority through those planning structures. For example, Texas Local Government Code authorized the creation of North Central Texas Council of Governments as a political subdivision of the state.²¹ Soon after the 2001 terrorist attacks, Governor Jeb Bush of Florida signed an executive order creating a Regional Domestic Security Task Force in each of the Florida Department of Law Enforcement’s seven regions.²²

The active participation of elected and top-level executive officials in regional planning and coordination efforts also serves as an authority for action among lower-level practitioners. The San Diego County Board of Supervisors is part of the San Diego region’s decision making process.²³ Louisville’s Criminal Justice Commission is the primary conduit for that region’s collaborative planning.²⁴

Also, the availability of federal and state homeland security funding and guidelines attached to those programs may serve as a strong incentive for fostering regional planning and cooperation. In 1997, only select cities received funding for domestic preparedness related to weapons of mass destruction through the federal Nunn-Lugar-

Domenici Domestic Preparedness Program.²⁵ In 2005, however, \$2.5 billion was allocated to states for the State Homeland Security Grant Program, including the Law Enforcement Terrorism Prevention Program and Urban Areas Security Initiative.²⁶ Recognizing the value of regional structures, the U.S. Department of Homeland Security issued specific guidance for the FY2005 Homeland Security Grant Program by encouraging states “to employ regional approaches to planning and preparedness and to adopt regional response structures whenever appropriate.”²⁷ There is likely a strong correlation between the relatively recent proliferation of statewide regional efforts and federal homeland security grant program guidance.

Regional operations

Public safety-oriented regions are conducting operational activities to a lesser degree than planning and coordination. Most regional operations are conducted for specific terrorism prevention and emergency response purposes, such as urban search and rescue teams and hazardous materials response teams. The Charlotte Urban Area’s 2004 Homeland Security Strategy, for example, identifies the objective of providing “a Regional Urban Search and Rescue (USAR) Team with redundant capabilities.”²⁸ Similarly, Kentucky has 12 regional WMD/HazMat teams equipped and trained to respond within a one-hour notice to local, regional and statewide hazardous material incidents.²⁹

Regional-level operations may also be conducted to enhance state, regional and local terrorism prevention efforts. New York state is segmented into 16 Counter Terrorism Zones to assist in the identification, analysis and dissemination of terrorism-related information and intelligence, among other purposes.³⁰ The primary mechanisms to enable the analysis of intelligence information are the Upstate New York Regional Intelligence Center and the New York/New Jersey High Intensity Drug Trafficking Area Regional Intelligence Center.³¹ Together, these systems provide for the seamless sharing of criminal intelligence throughout New York.

Operational plans and activities are especially common in regions that closely overlap with a single local jurisdiction. For example, the city and county of San Diego as well as 17 incorporated cities within the county are organized as the San Diego Operational Area, a requirement of the state’s Standardized Emergency Management System.³² The region’s Operational Area Emergency Plan outlines its emergency response system, including details about the roles and responsibilities of key agencies and officials.³³

Similarly, the greater Cincinnati area, including the city of Cincinnati, Hamilton County, and municipalities within the county formed the Terrorism Early Warning Group to “collect, evaluate, analyze and disseminate criminal intelligence information” and to “[f]acilitate the investigation of threats or hoaxes, suspicious devices or suspicious outbreaks of disease.”³⁴ Although there is evidence of regional operations, planning and coordination activities are more common at the regional level.

Assessing regional preparedness

Improving regional preparedness appears to be a high national priority, especially in the aftermath of Hurricane Katrina and the enormous homeland security financial investments made on the federal level in recent years. On the state and local levels, evidence suggests that regionalization is becoming more commonplace. However, “thinking regionally” is not a simple notion, and requires planning and coordination at the policy and practitioner levels to overcome cross-jurisdictional issues. In addition, the concept of public safety regionalization is relatively new, and few, if any, studies have focused on regional development and activities. For these reasons, few tools or methods exist to help public safety officials demonstrate heightened levels of preparedness or progress.

Highlighting these challenges, the U.S. Government Accountability Office identified factors that support regional coordination in a 2004 report, including the need for regional standards to help identify gaps between the current performance status and strategic goals.³⁵ However, many of the standards that exist in the public safety sector are tailored for state and local departments, agencies and programs.

The Commission on Accreditation for Law Enforcement Agencies establishes standards that reflect the best practices for a law enforcement agency. The *Standards Manual of the Law Enforcement Agency Accreditation Program*, 4th Edition, includes 38 topic areas encompassing 439 individual standards ranging from organization and administration to specific law enforcement operations.³⁶ Although the CALEA standards are applicable to law enforcement agencies of any size or type, it is unclear how well the standards apply to regional or collaborative law enforcement agency efforts. Chapters dealing with criminal investigation, criminal intelligence and crime prevention may provide content for assessing terrorism prevention and response efforts at the regional level.

Similarly, the Global Justice Information Sharing Initiative (Global) produced and disseminated the *National Criminal Intelligence Sharing Plan* in April 2004, providing a national framework for criminal intelligence and information sharing standards. The plan provides 28 recommendations that “local, state, tribal, and federal law enforcement agencies should use as a road map to ensure that effective intelligence sharing becomes institutionalized throughout the law enforcement community nationwide.”³⁷

To assist in the implementation of the plan’s recommendations, states and local jurisdictions are establishing intelligence fusion centers. The Global initiative released 17 guidelines in August 2005 to assist law enforcement agencies in the development and operations of these intelligence fusion centers. According to *Fusion Center Guidelines: Executive Summary*, fusion centers are “an effective and efficient mechanism to exchange information and intelligence, maximize resources, streamline operations, and improve the ability to fight crime and terrorism by merging data from a variety of sources.”³⁸ Furthermore, “[f]usion centers embody the core of collaboration, and as demands increase and resources decrease, fusion centers will become an effective tool to maximize available resources and build trusted relationships.”³⁹ In other words, intelligence fusion center efforts share common goals and characteristics with other regional-level

initiatives. Therefore, the accepted practices, guidelines and standards associated with intelligence sharing and fusion center activities may contribute to future assessments of regional preparedness.

Together CALEA and the Association of Public-Safety Communications Officials-International administer the Public Safety Communications Accreditation Program. Consisting of 216 standards, this accreditation program assesses public safety communications agencies, units of public safety agencies with a responsibility for communication services, and private entities with similar mandates.⁴⁰

Although these programs provide examples of accepted professional practices and benchmarks for measuring public safety preparedness, their applicability to a regional entity or effort is unclear.

Leaders in the National Capital Region, however, decided in 2004 to use a nationally recognized emergency management standard and accreditation program – the Emergency Management Accreditation Program – to assess the region’s emergency management capabilities.⁴¹ The 58 EMAP standards are scalable and apply to emergency management programs of any size; regions of varying sizes and composition are no exception. Working with regional stakeholders, EMAP is identifying and reviewing all regional-level documents against the EMAP standards, such as a regional emergency coordination plan, regional homeland security strategic plan, mutual aid operations plan and exercise after action reports.

Equally important, this regional assessment project is accounting for the emergency management capabilities and activities that occur at the local jurisdictional level. Therefore, assessment data from the District of Columbia and 11 local jurisdictions in Maryland and Virginia will be reviewed in aggregate.

In addition to providing the region with an assessment of local and regional capabilities against national emergency preparedness standards, this project will also serve as a test for how EMAP standards and assessment processes might be applied in other regions. This pilot project may serve as a model for future regional assessments in other areas of public safety.

Making regional improvements

Regional cooperation will likely become more important and common in the public safety sector as is the trend in other public policy areas. Blind to jurisdictional barriers, the public will continue to demand more public safety services at a higher quality and lower overall cost. “Regionalizing” is one way for public safety providers to share responsibilities and resources, improve operations, and meet these future demands.

However, there are inherent challenges with any collaborative effort. A lack of authority and differing opinions about sharing information and resources are often cited as reasons that inhibit regional development and progress. State and local officials may also be uneasy about relinquishing decision-making authority to a regional public safety

structure. How do states overcome these challenges and identify effective approaches when a “one size fits all” approach does not exist? To address these issues and strengthen regional preparedness, public safety officials at all levels of government should consider the following:

- *Future studies.* Additional research into the development of terrorism prevention and emergency response regions would provide states with meaningful information to improve regional activities. The development and dissemination of regional planning tools, established using information from case study examinations and expert work groups, would enhance regional planning, operations and resource management responsibilities. Lessons should be gleaned from a variety of comparative and inter-disciplinary studies involving the public safety and health, transportation and land use and development sectors.
- *Financial incentives and support among elected and appointed officials.* Federal, state and urban area homeland security grant monies appear to be effective incentives for fostering regional cooperation. Also, the involvement, decision-making and support of elected and high-level administrators in regional efforts help to demonstrate the individual jurisdictions’ commitment to cooperation, and provide authority for action among lower-level practitioners.
- *Measuring preparedness.* The public will continue to demand that public safety administrators demonstrate regional improvements. In order to benchmark progress, professionally recognized standards need to be developed and applied at the regional level. Emergency management standards and assessment processes may provide a model for other regional assessments and the development and application of terrorism prevention standards. Furthermore, it is equally important to assess the capabilities of the local jurisdictions that serve as the foundation for any regional effort.

Whether preparing for another high-profile sniper incident, terrorist bombing or massive earthquake and hurricane response, regional planning and coordination efforts pay dividends in tangible and intangible ways. Although different regional approaches exist, most share a common goal – identifying and overcoming jurisdictional barriers to enhance overall preparedness.

Thus, “thinking regionally” is more than an abstract concept for public safety officials today; it’s the new way of doing business.

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Centralization and Standardization: The Other Common Approaches

In addition to coordination, the National Association of County and City Health Officials identified centralization and standardization as two other types of approaches that may be used to achieve regional preparedness. Centralization is the “pooling of resources and limited capacities of individual LPHAs [local public health agencies]...by forming a separate regional entity for the purpose of responding to a serious public health emergency.” As the name implies, the standardization or interoperability of equipment and functions ensures they “can be combined, without special effort, during an emergency incident.”

Source: The National Association of County and City Health Officials. *Regional Approaches to Preparedness: A Project Public Health Ready (PPHR) Working Paper*, (NACCHO, 2005), 2-3.

A Regional Terrorism Prevention Case Study – The 2002 DC Sniper Investigation

In October 2002, two sniper suspects shot 14 people and killed 10 in the greater National Capital Region. Involving more than 30 law enforcement agencies at the state, local and federal levels, this incident challenged the most senior police chiefs and experienced investigators in the region.

After the shootings and arrest of the perpetrators, the Police Executive Research Forum conducted a study of public safety officials involved in the sniper investigations, and released a report in 2004 entitled *Managing a Multijurisdictional Case: Identifying the Lessons Learned From the Sniper Investigation*. The following lessons identified in the report support the need for collaborative regional efforts in preparation for and during high profile crime and terrorism investigations.

- “Whenever possible, agencies should develop mutual aid agreements prior to any major incident or investigation.”
- “Radio systems should be interoperable and encrypted whenever possible.”
- “In a task force arrangement, personnel must be accountable to a single command-and-control structure.”
- “Roadblocks should be used to achieve a specific law enforcement purpose, and should be carefully planned and coordinated across jurisdictional, regional and state boundaries.”
- “Many of these law enforcement organizations work closely with the Metropolitan Washington Council of Governments...[which] provides a forum for action and develops regional responses, including public safety and transportation.”

- “We would strongly encourage chiefs from adjoining communities to meet periodically to address together these and the other questions that pepper this report, perhaps even to develop a plan they would agree to follow in the event of a crisis such as the sniper shootings.”

Source: Gerard R. Murphy and Chuck Wexler. *Managing A Multijurisdictional Case: Identifying the Lessons Learned form the Sniper Investigation*, (Washington, DC: Police Executive Research Forum, 2004).

Public Health Readiness – A Model for Assessing Regional Preparedness

The National Association of County and City Health Officials’ Project Public Health Ready has identified and is in the process of reviewing public health preparedness in four pilot regions, including sites in Georgia, Illinois, Massachusetts and New York. A collaborative endeavor with the Centers for Disease Control and Prevention, Project Public Health Ready requires the pilot sites to meet certain emergency preparedness criteria in the areas of emergency preparedness and response planning, work force competency development and exercise simulations.

Local public health agencies in 17 states are recognized as Public Health Ready, and sites in 18 states are in the process of identifying and submitting evidence in support of the criteria. For more information about the pilot sites, program or NACCHO, visit: <http://www.naccho.org>.

Source: The National Association of County and City Health Officials. “Project Public Health Ready,” <<http://www.naccho.org/topics/emergency/pphr.cfm>> (25 November 2005).

The Council of State Governments

The Council of State Governments is the premier multibranch organization forecasting policy trends for the community of states, commonwealths, and territories on a national and regional basis. CSG alerts state elected and appointed officials to emerging social, economic, and political trends; offers innovative state policy responses to rapidly changing conditions; and, advocates multistate problem-solving to maximize resources and competitiveness. CSG promotes excellence in decision-making and leadership skills and champions state sovereignty.

Endnotes

¹ Gerard R. Murphy and Chuck Wexler. *Managing A Multijurisdictional Case: Identifying the Lessons Learned form the Sniper Investigation*, (Police Executive Research Forum, 2004), 1.

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ADDENDUM II

Overcoming the Jurisdictional Divide: Compacts for Sharing Law Enforcement Intelligence and Resources

June 2006

The Council of State Governments

Through support from the National Institute for Justice

What impact do jurisdictional boundaries have on those who plot acts of terrorism? It appears very little, and those borders are becoming less significant. The Sept. 11 terrorists, for example, criss-crossed the United States while plotting the attacks, setting foot in at least 12 states.¹ There are also reports that al Qaeda and other extremist groups are increasingly using the Web to plan attacks and share training materials.²

The Sept. 11 example and recent reports about the Internet show, unfortunately, that there are places for terrorists to hide and conspire.

These changing conditions require an unprecedented level of cooperation among law enforcement agencies at all levels of government. And, these multi-jurisdictional demands are one reason “for the growing complexity of the state police operating environment in the post-Sept. 11 era.”³

Today, state law enforcement agencies are fulfilling important lead and supporting roles in the terrorism prevention and response framework, including:

- collecting and sharing information and intelligence,
- conducting terrorism-related investigations,
- protecting critical infrastructure and key assets,
- collaborating with federal and local law enforcement on task forces, and
- preparing to respond to a variety of new threats and hazards.⁴

Meeting these new public duties requires that state and local law enforcement agencies collaborate across jurisdictional boundaries in ways unimagined 20 years ago. Sharing intelligence and investigating possible leads requires that states, working in concert with federal law enforcement officials, establish agreements and common systems to exchange information.

Likewise, state and local law enforcement officials often become overwhelmed, if not victims themselves, when responding to disasters. Therefore, mutual aid policies and procedures need to be in place to request and receive external resources to assist at the scene of a disaster and to help backfill traditional public safety duties left vacant by responding units and personnel. Local law enforcement agencies need the capability to help one another during small-scale incidents. Likewise, it is important that state and local police have mechanisms in place to cross state lines in support of larger events.

Despite these needs, today states are faced with statutory and legal barriers that hinder their ability to share information, investigate and prosecute terrorism-related crimes and collaborate with federal partners.

The 2004 *National Criminal Intelligence Sharing Plan* suggests that many intelligence-related barriers exist among states, including “local, state, tribal, and federal laws and policies that unduly restrict law enforcement access to information.”⁵ Similarly, a 2004 report by the RAND Corporation notes that, “overcoming impediments to information sharing and coordination is important to achieve.”⁶ In response, the *National Criminal Intelligence Sharing Plan* outlines the need to “assist localities, states, and tribes in eliminating barriers in their laws and policies that limit intelligence sharing.”⁷

Following a disaster, legal provisions for requesting and providing law enforcement resources across state boundaries are established in the Emergency Management Assistance Compact. However, EMAC and other agreements do not provide law enforcement and other public safety disciplines with specific guidelines and procedures to request and provide assets across jurisdictional boundaries. Aside from EMAC, there are only six known interstate compacts in place today that address law enforcement-specific duties and responsibilities.⁸

Although states have begun to establish agreements for terrorism-related purposes, a recent study by The Council of State Governments and Eastern Kentucky University found that “[t]hese efforts point to a larger need to study the jurisdictional obstacles that appear to exist among states within the counterterrorism framework.”⁹

The following sections provide a description of existing law enforcement agreements for preventing and responding to acts of terrorism, as well as considerations for strengthening multi-jurisdictional efforts.

Law enforcement compacts—purposes and limitations

Interstate compacts for public safety and criminal justice purposes have flourished since the 1930s, mainly due to the passage of the Crime Control Act of 1934, which provided congressional consent for states to enter into such arrangements.¹⁰ Today, there is a wide range of both new and revised compacts that cover many different facets of public safety and criminal justice, including the transfer of prisoners, criminal history repositories, drug enforcement, drivers’ safety and licenses, and civil defense and emergency management.¹¹ Some compacts in existence today establish explicit rules, while others create and authorize governing bodies or commissions to draft and adopt rules on a regular basis.

According to a report by The Council of State Governments,

“Interstate compacts are contracts between states that carry the force and effect of statutory law. They are a tool for state governments to address regional or national policy concerns. Compacts are not a solution per se, but rather they allow a state to enter into a contract with other states to

perform a certain action, observe a certain standard or to cooperate in a critical policy area. The law and use of interstate compacts is not particularly complex. Like any contract, the language of a compact needs to be identical in intent and context, if not identical in exact verbiage between the states.”¹²

Interstate agreements may also be forged among states through memorandums of agreement and understanding and executive orders. These are common tools used by the states, especially chief executives and individual state agencies.

Although MOAs, MOUs and executive orders are expedient methods for the executive branch, they typically fall short in three regards. First, the appropriation of state funds is a legislative privilege. Therefore, the implementation and operation of these agreements are restricted financially. Executive-level agreements often lack provisions for enforcement and sanctions to help ensure member states comply with the terms of agreement. Third, MOAs typically have a time span limitation such as a sunset clause or may be restricted by the chief executive’s length of public service. State legislation is capable of addressing these shortfalls.

Although a preponderance of criminal justice compacts are meant to address corrections-related problems, regional and two-state compacts exist to assist law enforcement agencies in a variety of ways. The *New England State Police Compact*, for example, was enacted by six northeastern states between 1965 and 1969. The purpose of this agreement was to establish procedures for the application of mutual assistance in controlling riots and other law enforcement emergencies.¹³

Multiple two- and three-state compacts provide concurrent jurisdiction for law enforcement agencies where waterways and bodies of water separate two or more states. Arizona, California and Nevada signed the *Colorado River Crime Enforcement Compact* between 1985 and 1987. According to the agreement, court and law enforcement officers of counties bordering the Colorado River have concurrent jurisdiction of criminal offenses committed on the Colorado River.¹⁴

The *California-Nevada Compact for Jurisdiction on Interstate Waters* was enacted by those states between 1987 and 1995 and provided concurrent jurisdiction in arresting and prosecuting offenders who commit crimes on Lake Tahoe and Topaz Lake.¹⁵ Similarly, Oregon and Washington signed the *Boating Offense Compact* in 1991 and 1992. This agreement provides concurrent jurisdiction for the courts and law enforcement officers over boating offenses committed where waters form a common interstate boundary.¹⁶

Drug enforcement has also been the source of a national interstate compact. Eleven states, mainly in the southeast and mid-west regions, enacted the *National Guard Mutual Assistance Counter-Drug Activities Compact* between 1992 and 1998. The legislation provided mutual assistance and support among the member states toward counter-drug and demand-reduction activities.¹⁷

More recently, 16 states have adopted the *National Crime Prevention and Privacy Compact*, which authorizes and requires signatory states to make criminal history records available for non-criminal justice requests.¹⁸ For example, many states require background checks on people seeking employment where they work with children and the elderly or for security purposes. Background checks are also required for the purchase of firearms. The compact requires that signatory states conduct background checks requested by other member states.¹⁹ Furthermore, the compact assists in the development and operation of the Interstate Identification Index, a system managed by the Federal Bureau of Investigation to connect federal criminal history files with those from the states.²⁰

Very little is known about the adequacy of these law enforcement-specific compacts for preventing and responding to acts of terrorism and other disasters. Emergency management agreements exist, however, that allow states to share law enforcement resources in response to a disaster.

Responding to acts of terrorism and other disasters

One, if not the only, formal mechanism in place to allow a state to request and receive law enforcement assistance from other states is the Emergency Management Assistance Compact. This compact supports the timely exchange of resources through the establishment of legal protections and provisions for reimbursement before a disaster occurs. Since 1996, all 50 states, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands have enacted legislation to become members of EMAC.²¹

State governors can use EMAC to request civilian resources from many different disciplines; law enforcement personnel and equipment are no exception. In fact, 6,882 law enforcement personnel were requested and deployed from 32 states during the response to hurricanes Katrina and Rita in 2005.²² Law enforcement represented the largest portion—35 percent—of civilian assets deployed during the 2005 hurricane season. The average number of law enforcement personnel deployed by assisting states was 197 personnel; Florida deployed 1,301 law enforcement officials.²³

In addition to EMAC, many states have intrastate agreements that enable and facilitate the sharing of state and local law enforcement resources within state borders. The National Emergency Management Association in 2004 developed and published model language for intrastate legislative agreements with best practice checklists. Although more than 13 states have developed and implemented a statewide mutual aid agreement structured on this model, unknown are the number, type and adequacy of other intrastate agreements.²⁴

Some states have procedures for the internal sharing of state and local law enforcement resources. California, for example, has a *Law Enforcement Mutual Aid Plan* that describes the policy, provides procedures for requesting and providing law enforcement resources, and identifies roles for regional mutual aid coordinators and state agencies

such as the California Highway Patrol, California Department of Justice and the Law Enforcement Branch of the Governor's Office of Emergency Services. This plan derives authority from The California Emergency Services Act and the state's Master Mutual Aid Agreement, which requires that political subdivisions in the state approve by resolution the master agreement.²⁵

The plan has been used several times, including during civil unrest in Los Angeles, after several air crashes, and for numerous calls for assistance during natural disasters such as floods and fires.²⁶ In addition, "[t]he mutual aid system has been used successfully for many other situations, including large criminal investigations, and deployment of special teams such as Special Weapons and Tactics, Bomb Squads, etc."²⁷

It is unclear how many states have specific agreements or plans and procedures established for the sharing of law enforcement personnel and equipment, like California's plan.

Sharing intelligence and conducting investigations across state borders

Given the high mobility of the population and advent of the Internet, terrorism- and more general crime-prevention efforts require unprecedented levels of cooperation among law enforcement entities in different states. The establishment of common policies and standards of practice—key ingredients to multi-state cooperation—may be hindered by the variety of new counterterrorism laws passed by states since 2001.

In fact, the American Prosecutors Research Institute reported in 2003 that 45 states passed 67 new statutes concerning terrorism since 2001, creating an aggregated total of 143 new state-level offenses.²⁸ In addition, 167 amendments to existing statutes were adopted. New statutes address a range of categories, including precursor crimes; threats, hoaxes and false reports; actual incidents; and investigations and prosecutions. Amended statutes include sentencing enhancements for terrorism-motivated crimes.²⁹

APRI also found, however, that prosecutors had a number of concerns about the usefulness and effectiveness of their state statutes. In particular, prosecutors cited a number of challenges they have encountered or anticipate encountering in their efforts to investigate and prosecute terrorism-related offenses, including multi-jurisdictional issues, such as obtaining multi-jurisdictional search warrants.³⁰

Similarly, CSG/EKU's study found concerns by general-purpose law enforcement agencies with public record laws, information and intelligence sharing, search, seizure and privacy laws, authority to investigate suspicious activities and use-of-force laws.³¹

Although disparate state laws and legal issues in sharing information and conducting investigations may be hindering multi-jurisdictional efforts, anecdotal evidence suggests that states are turning to executive-level agreements as a tool for sharing information and intelligence about suspicious activities and investigating possible leads.

As agreements between states, memorandums of agreement help states identify common standards of practice. Lacking in the field of terrorism prevention, however, are evidence-based policies and practices. Unlike crime prevention efforts that benefit from evaluation using comparative methods such as control and test groups and quantifiable techniques, there are very few historical instances of acts of terrorism in the country to show that policies and practices meet their stated goals. As a result, researchers are predominantly using qualitative methods such as expert focus groups to evaluate terrorism prevention policies and practices.

Although these consensus-building techniques can be time-consuming, professional standards for sharing intelligence are surfacing and being implemented at the state and local levels.

The Global Justice Information Sharing Initiative (Global), for example, produced and disseminated the *National Criminal Intelligence Sharing Plan* in April 2004, providing a national framework for criminal intelligence and information-sharing standards. The plan provides 28 recommendations that “local, state, tribal, and federal law enforcement agencies should use as a road map to ensure that effective intelligence sharing becomes institutionalized throughout the law enforcement community nationwide.”³²

To assist in the implementation of the plan’s recommendations, states and local jurisdictions are establishing intelligence fusion centers. According to *Fusion Center Guidelines: Executive Summary*, fusion centers are “an effective and efficient mechanism to exchange information and intelligence, maximize resources, streamline operations, and improve the ability to fight crime and terrorism by merging data from a variety of sources.”³³ Guideline five encourages fusion center stakeholders to use MOUs or other types of agency agreements and provides example agreements and templates.³⁴

Since 2001, many states have initiated agreements with neighboring jurisdictions for intelligence-sharing purposes. Executives in New York and Vermont signed an agreement in 2004 to enable the sharing of information among state law enforcement agencies.³⁵ Similarly, Gov. Janet Napolitano from Arizona signed an MOU with New Mexico Gov. Bill Richardson in February 2004 to enable both states to share unclassified intelligence and conduct joint homeland security exercises.³⁶

Local law enforcement agreements are also important to have established and exercised prior to major incidents or investigations. In October 2002, two snipers shot 14 people, killing 10, in the greater National Capital Region.³⁷ After the shootings and arrest of the perpetrators, the Police Executive Research Forum conducted a study of public safety officials involved in the sniper investigations, and recommended that local law enforcement agencies “determine the extent to which they can provide mutual aid to other agencies, and develop Memoranda of Understanding (MOUs) to formalize those agreements.”³⁸

Unclear, however, are the number, type and adequacy of agreements among state, local and chief law enforcement executives for sharing criminal intelligence, conducting

homeland security-related activities, and addressing disparate state and local laws and practices.

Strengthening capabilities across jurisdictional boundaries

Collaboration among state and local law enforcement agencies will likely grow in importance as new security threats emerge, people become more mobile, technology continues to blur jurisdictional lines, and the public and elected officials demand safety and security. This “paradigm of collaboration” will require the development of more standards for preventing and responding to acts of terrorism, as well as the implementation of compacts and agreements to establish these standards in policy and practice.

As states seek to strengthen capabilities across jurisdictional boundaries, policy-makers and law enforcement officials should consider the following:

- *Form multi-jurisdictional regions through agreements.* In addition to enhanced preparedness, regional efforts provide opportunities for state and local jurisdictions to do more with less. For example, regional approaches help promote cost-sharing to maximize states’ use of funds and capitalize on economies of scale by purchasing larger quantities of sophisticated equipment at lower overall costs.
- *Establish professional standards for terrorism prevention.* The public will continue to demand that public safety administrators demonstrate improvements in their terrorism prevention and response capabilities. In order to benchmark progress, professionally recognized standards need to be developed and applied for terrorism prevention efforts.
- *Develop and share mutual aid procedures for law enforcement.* Although interstate and intrastate mutual aid mechanisms exist, they lack resource-sharing procedures and example plans for state and local law enforcement practitioners. Protocols for deputizing or granting arrest authority to out-of-state officers, for example, are not clearly established. Lessons including innovative practices from recent incidents and exercises involving sharing law enforcement resources should be captured, studied and disseminated broadly.
- *Test and study existing state laws and agreements.* Quantitative and qualitative methods should be used to evaluate the adequacy of new state laws and inter-jurisdictional agreements. The sharing of law enforcement information and resources during natural- and human-caused incidents and large-scale exercises should be assessed to identify lessons learned. Likewise, case study examinations should be conducted of states that participate in Top Officials Exercises (TOPOFF) sponsored by the U.S. Department of Homeland Security.

Terrorist and other criminal groups will continue to exploit the Internet and open society to prey on victims and commit heinous acts. In response, the law enforcement community

needs to develop innovative solutions to identify these wrongdoers, even though they and their victims may be in separate states.

By strengthening interstate and intrastate agreements for terrorism- and general crime-prevention purposes, perpetrators will be caught running for the border, and states will be sending a strong signal to conspirators that there is not a safe place to hide.

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Interstate Agreements for Law Enforcement and Concurrent Jurisdiction

Compact Name	Interstate Problem	Scope	Number of Member States	Adoption Years
1) New England State Police Compact	Provides mutual aid for controlling prison and other riots, as well as law enforcement emergencies in general.	Regional	6	1965-1969
2) Colorado River Crime Enforcement Compact	Grants concurrent jurisdiction for courts and law enforcement officers over criminal offenses committed on the Colorado River.	Three-State	3	1985-1987
3) California-Nevada Compact for Jurisdiction on Interstate Waters	Grants concurrent jurisdiction to arrest, prosecute and try offenders with regard to acts committed on Lake Tahoe or Tapaz Lake.	Two-State	2	1987-1995
4) Boating Offense Compact	Grants concurrent jurisdiction to Oregon and Washington courts and law enforcement officers over boating offenses committed where waters form a common interstate boundary.	Two-State	2	1991-1992
5) National Guard Mutual Assistance Counter-Drug Activities Compact	Provides mutual assistance and support in the utilization of the National Guard in drug interdiction, counter-drug and demand-reduction activities.	National	11	1992-1998
6) National Crime Prevention and Privacy Compact	Authorizes the sharing of criminal history records in response to authorized non-criminal justice requests.	National	16	1999-Present

Source: William Voit, Interstate Compact & Agencies, (The Council of State Governments, 2003), 43-58.

The Emergency Management Assistance Compact – 2005 Hurricane Season Lessons Learned

Following the 2005 hurricane season, an after-action critique of the Emergency Management Assistance Compact was conducted for deployed law enforcement personnel. Among other practices, the following items that worked well were cited:

- States providing law enforcement resources sent advance teams to the impacted areas to reconnoiter, meet contacts in areas of operations and determine the resource needs of deploying units.
- Law enforcement personnel from impacted and assisting states established in-processing stations for external personnel and units, helping to ensure accountability.
- Personnel from assisting states that deployed and operated in impacted areas as a unit helped in maintaining command and control and in supporting logistical needs.

This critique also revealed many issues with sharing law enforcement resources that would also likely hinder the nation's response to a terrorist-related incident. Among other issues, deployed personnel cited the following gaps:

- There was a general lack of awareness about EMAC and other agreements.
- Requests for assistance—including equipment needs and types of missions—were not specific enough, resulting in inadequate preparations among responding units and personnel.
- Standard descriptions of law enforcement needs and resource typing definitions are insufficient. For example, the requesting and assisting states' descriptions of a law enforcement "strike team" were inconsistent.
- Not all units deployed with enough supplies to sustain themselves for the entire period of deployment, creating an added burden on resources in the impacted area.

The National Emergency Management Association, the EMAC administrator, and law enforcement groups plan to address these issues and act on other areas of opportunity for strengthening this agreement.

Source: The Emergency Management Assistance Compact, 2005 Hurricane Season After Action Critique—Breakout Session #4 Law Enforcement, (28 March 2006).

Why Interstate Compacts?

The U.S. Constitution states, "No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State (Article I, Section 10, Clause 3)."

The Crime Control Act of 1934 provided states with Congress' consent to forge future agreements for crime reduction and criminal justice purposes. Specifically, the Act provided that "any two or more states may enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies (48 Stat. 909 (1934), 4 U.S.C.A. § 112)."

Today, there are more than 200 active interstate compacts. Why should states consider interstate compacts for addressing emerging issues? Among other reasons, compacts provide states with:

- An alternative to federal action for addressing regional or bi-state issues.
- Flexible, rule-making authorities to adapt to changing public safety conditions without having to seek legislative changes in all member states. Interstate commissions may be established and authorized to draft and amend rules on a regular basis.
- Allow states to develop information sharing systems that account for disparate state laws and practices.
- A means of appropriations or funding by the states to support critical interstate functions. Without “earmarked” support by the states, these activities would likely compete with other public safety and criminal justice priorities for federal resources.

CSG’s National Center for Interstate Compacts serves as an information clearinghouse of compact efforts and provides training and technical assistance to state officials on their development and implementation. For additional information about the national center or interstate compacts, visit <http://www.csg.org/programs/ncic/default.aspx>.

Source: National Center for Interstate Compacts, The Council of State Governments, <<http://www.csg.org/programs/ncic/default.aspx>>.

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